

**ATTACHMENT 3
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

**Staff Response to Comments
City of Atascadero Stormwater Management Plan January 2009**

Introduction

This document includes the Central Coast Regional Water Quality Control Board (Water Board) Staff Responses to the comments received during the Water Board's 60-day public comment period (January 29 – March 30, 2009) for the City of Atascadero's (City) Stormwater Management Plan (SWMP) and Water Board staff's Draft Table of Required Revisions. Water Board staff has responded to all comments based on the most current draft, the January 2009 version of the City SWMP. Water Board staff received comments from the following parties:

March 30, 2009: City of Atascadero
March 30, 2009: Debbie Skinner
March 30, 2009: Atascadero Coastkeeper
March 30, 2009: Home Builders Association of the Central Coast (also, included by reference, was the California Stormwater Quality Association's (CASQA) June 27, 2008 letter to the Water Board)
April 8, 2009: Home Builders Association of the Central Coast Withdrawal of Public Hearing Request

Comments from the City of Atascadero March 30, 2009

Comment 1. In their March 30, 2009 letter (Attachment 2), the City presented their comments in the form of an amended Table of Required Revisions that indicates how the City has modified the SWMP in response to Water Board Draft Table of Required Revisions for the City's January 2009 Draft SWMP.

Staff Response 1: In Table 1, Items 1 through 18, Water Board staff indicates whether or not the City's SWMP, including the March 30, 2009 revisions submitted as public comment, are responsive to Water Board staff's Draft Table of Required Revisions.

Table 1: Water Board Staff Responses to the City of Atascadero's March 30, 2009 Draft SWMP Revisions Addressing Water Board Staff's March 9, 2009 Draft Table of Required Revisions.

Item	Subject	Required Revisions	Water Board Staff Responses
1	Key Water Quality Criteria	The City must check all hyperlinks and revise to provide functional links.	<p>The City revised the SWMP as required by updating the hyperlinks, which were functional as of October 5, 2009.</p> <p>The revision is in Section 2.1, page 7 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required</p>

Item	Subject	Required Revisions	Water Board Staff Responses
			Revision.
2	BMP ID3 Illicit Discharges, Specifically Mobile Washers and the City's Term "Street Wash Water"	The City must clarify the language in Section 4.3 to meet the requirements of the General Permit for section D.2.c.3. Include mobile pressure washers and mobile commercial vehicle washers in the City's regulation and definition of street wash water.	<p>The City added language to clarify that the City will adopt an ordinance prohibiting non-stormwater discharges into MS4. Additionally, the City updated the bulleted list of "categories of non-stormwater discharges or flows found to be potential contributors of pollutants to the MS4" to explicitly include mobile pressure washers and mobile commercial vehicle washers.</p> <p>The revision is in Section 4.3.2, page 54 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
3	CON1B Construction Site Runoff Control BMPs	In Table 11, the BMP CON1B language is confusing. The City must clarify CON1B to indicate, "100% of City staff with discretionary review duties <u>are</u> trained to ensure <u>each</u> project includes <u>appropriate</u> BMPs needed and are in conformance with City-adopted BMP Reference Manuals and City Standards."	<p>The City modified the text to read exactly as suggested.</p> <p>The revision is in Table 11, page 64 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
4	CON1A Construction – Discretionary Review Tools	<p>In Table 11a, the SWMP language is confusing for BMP CON1A.</p> <p>A) The City must indicate what the Community Development Department will implement through BMP CON1.</p> <p>B) The City uses terms "design guide," "reference manual," and "manual" several times. Please standardize terms or describe separately, if more than one document.</p> <p>C) The SWMP indicates in Year 1 the City will "Confirm E&SC triggers are appropriate." The City must explain how this will interact with the ordinance and Policy 8.1.8 (on page 27). We</p>	<p>The City revised the SWMP as required by selecting common terms and revising the text as follows:</p> <p>A) The City clarified that the purpose of BMP CON1A is to minimize risk of construction related discharges.</p> <p>B) The city selected "BMP reference manual" as the common term.</p> <p>C) The City added language to clarify:</p> <ol style="list-style-type: none"> 1. The City will examine the need for and possibility of creating an Erosion Control Assistance Program utilizing the

Item	Subject	Required Revisions	Water Board Staff Responses
		<p>recommend the City post its informational brochures and manuals/guides on the City's stormwater webpage.</p> <p>D) The City must revise the section and make consistent reference to municipal codes, manuals, or design guides.</p> <p>E) The City must revise the "Goals Targeted" description to indicate the BMP will "increase awareness <u>of</u> public employees, businesses, and the general public of <u>about</u> the pollutant potential of <u>in</u> <u>stormwater runoff from</u> construction sites."</p> <p>F) We recommend the City revise the "Notes" to indicate, "Revisions to Grading Ordinances, if required, will be distributed for public review prior to Adoption <u>by the City Council. City staff will hold at</u> least one public meeting to solicit public input will be held, if revisions are required.</p>	<p>Upper Salinas Las Tablas Resource Conservation District as an aid to developers in order to minimize sedimentation of creeks and the Salinas River.</p> <p>2. The City will review existing municipal code for compliance with a list of specific criteria, including applicability criteria.</p> <p>3. The City will post BMP reference manuals and construction site E&SC practices brochure on the City's stormwater webpage as part of PE 6.</p> <p>D) The City selected "BMP reference manual" and clarified that municipal code revisions may be required to be implemented via an ordinance adopted by the City council.</p> <p>E) The City modified the wording to read exactly as requested.</p> <p>F) The City modified the wording to read exactly as requested.</p> <p>The revisions are in Table 11a, pages 66-67 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
5	BMP CON2 Educate stakeholders about potential pollutants associated	<p>A) Revise Table 11–CON2 BMP descriptions to align more accurately with Table 11b.</p> <p>B) The City must post the construction site runoff control brochure on the City's stormwater</p>	<p>A) The City revised BMP descriptions in Table 11 to match wording described in Table 11b.</p> <p>B) The City modified BMP PE4 to indicate the construction site runoff control brochure will be developed</p>

Item	Subject	Required Revisions	Water Board Staff Responses
	with construction sites (Table 11).	<p>web page as part of its BMP CON2A commitment to post links for Contractor E&SC training opportunities.</p> <p>C) We recommend the City add a "Note" at the bottom of Table 11b indicating the City will coordinate construction site inspection information exchanges with SLO Green Build and other stakeholders as part of BMP PE1C.</p>	<p>under PE4 and posted on the web site under BMP PE6. The research and posting of contractor E&SC training opportunities to the City's web site will be tracked via Measurable Goal CON2A.</p> <p>C) The City added a series of Notes in Table 11b consistent with our recommendation.</p> <p>The revisions are in Table 11, page 64, Table 7, page 36, and Table 11b, page 69 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
6	BMP CON3 Erosion and Sediment Control (E&SC) Plans (Table 11c)	<p>A) In Table 11c, the City uses vague and non-specific language in the "Purpose," "BMP Details," and "Goals Targeted" statements. The City must modify the "Purpose" description to indicate the BMP will "eliminate pollutants in construction related discharges". The City must modify the "BMP Details" to correct the word "commending" to "commencing". The City must modify the "Goals Targeted" statement to indicate the BMP will: "Increase awareness of public employees, businesses, and the general public of the pollutant potential of in stormwater runoff from construction sites."</p> <p>B) In Table 11c, the SWMP does not indicate BMPs and MGs associated with CON3 coordinate with other BMPs and MGs. We recommend the City adds a "Note" at the bottom of Table 11c indicating the City will coordinate E&SC planning with 1) IDDE tracking (BMP ID1A) and 2) the City staff will follow up construction site enforcement actions (lack of SWPPPs or E&SC</p>	<p>A) The City modified the wording to read "Eliminate pollutants in construction related discharges to the maximum extent practicable." The City corrected the word "commencing" in the BMP Details. The City revised the Goals Targeted to read "Increase awareness of public employees, businesses, and the general public about the pollutant potential in stormwater runoff from construction sites."</p> <p>B) The City modified the wording and Notes to correct errors and include the suggested Notes.</p> <p>The revisions are in Table 11c, page 70 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's</p>

Item	Subject	Required Revisions	Water Board Staff Responses
		Plans) as part of BMP CON2.	Required Revision.
7	CON4 Construction Site Complaint Mechanisms	The "Purpose" statement in Table 11d is vague. The City must modify the "Purpose" description to indicate the BMP CON4 will "eliminate pollutants in construction related discharges."	<p>The City modified the wording in Table 11d to read "Eliminate pollutants in construction related discharges to the maximum extent practicable."</p> <p>The revision is in Table 11d, page 71 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
8	Post-Construction stormwater management controls Program Goals	<p>A) On page 69, the City's Program Goal III mentions only subdivisions and does not include all facilities. Atascadero is mostly subdivided, so this language would severely limit applicability of post-construction runoff control measures. The City must modify the post-construction stormwater management controls Program Goal to indicate, "III. Assure a mechanism is in place for long-term maintenance of post-construction facilities in new subdivisions development and re-development."</p> <p>B) The "Goals Targeted" entry in Table 12e does not adequately describe the title, task, or purpose for BMP PC5. The City must modify the "Goals Targeted" in Table 12e to indicate the BMP seeks to increase stakeholder awareness of the important functions riparian and wetland habitats provide to maintain water quality in the City's waterways and groundwater.</p>	<p>A) The City modified the wording to read exactly as requested.</p> <p>B) The City modified the wording to read exactly as requested.</p> <p>Note Table 12e is now 12d. This was a result of combining BMP language from PC3 into BMP CON2 and deleting PC3. The remaining sections and tables were renumbered accordingly.</p> <p>The revisions are in Section 4.5.1, page 72 and Table 12d, page 82 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
9	MG PC1D	A) As indicated in our July 10,	A) The City modified MG PC1D to

Item	Subject	Required Revisions	Water Board Staff Responses
	Gain Approval of Interim/Long-Term Hydro-Modification Control Plan Included as Appendix C	<p>2008 letter to MS4s, Water Board staff will approve, or recommend approval by the Water Board, SWMPs that require MS4s to adopt and implement interim controls by the end of Year 1, and long-term criteria during the course of the 5-year permit cycle. The SWMP indicates the City will develop “interim/long-term” hydromodification controls to apply to eligible projects deemed complete by the end of Year 2. The City makes no distinction between interim and long-term criteria. The City must revise MG PC1D to indicate the City will “gain approval for interim hydromodification criteria in Year-1, and earnestly develop long-term hydromodification criteria specific to watersheds within the City’s jurisdiction (e.g., Atascadero Creek, Graves Creek) during the 5-year permit cycle.”</p> <p>B) The City presents a Hydromodification Plan and a Technical Basis for that Plan in SWMP Appendices C and D, respectively. Water Board staff has not required the City to include the hydromodification control requirements in the SWMP, but rather to include in the SWMP a commitment to develop hydromodification control requirements. The Water Board has pursued an enrollment strategy and schedule for Phase II MS4s that does not include review of hydromodification controls prior to SWMP approval. The City’s Hydromodification Plan is an earnest effort by the City and contains several good elements. However, because Water Board approval of a SWMP containing a Hydromodification Plan and supporting information could be</p>	<p>say “Gain approval for interim hydromodification control plan.” The City added a new MG PC1E to include development of long-term hydromodification criteria specific to watersheds within the City’s jurisdiction.</p> <p>B) The City revised the timetable for MG PC1D to reflect development of interim and long-term hydromodification control plans. The City revised the scheduling of MGs PC1B and PC1C to the end of Year 2.</p> <p>The revisions are in Table 12, page 75 and Table 12a, page 77 of the March 30, 2009 SWMP. The City’s revision adequately addresses Water Board staff’s Required Revision.</p>

Item	Subject	Required Revisions	Water Board Staff Responses
		construed as an approval of the Plan and concurrence with the supporting information, Water Board staff cannot recommend approval of the SWMP with Appendices C and D. The City must remove Appendices C and D and all references to them from the SWMP. The City must submit its proposed Hydromodification Plan according to the schedule described above.	
10	MG PC2B - Revise CEQA Initial Study Checklist, and MG PC2C - Develop a Post-Construction SWMP Checklist	The City must revise MGs PC2B and PC2C to indicate the Initial Study Checklist and Post-Construction SWMP Checklist will be available for project review staff by the end of Year 2.	<p>The City modified the implementation timetable to reflect the Initial Study Checklist and Post-Construction SWMP Checklist will be available for project review staff by the end of Year 2.</p> <p>The revisions are in Table 12, page 75 and Table 12b, page 79 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
11	BMP PC5 Construction Projects in Close Proximity to Riparian and Wetland Habitats	<p>A) The "Assessment Measures" in Table 12e indicate the City will tabulate the "number of permits issued along creeks and account for the percentage of those permits that have improvements within the 30-ft of the creek bank." Language in BMP PC5A is vague and does not address these "Assessment Measures." The City must provide a specific measurable goal in Table 12 to track construction in close proximity to riparian and wetland habitats throughout the 5-year permit cycle.</p> <p>B) The "Goals Targeted" entry listed in Table 12e does not adequately describe the title, task, or purpose for BMP PC5. The City must modify the "Goals Targeted" entry in Table 12e to indicate the</p>	<p>The City combined language from BMP PC3 into BMP CON2 and deleted BMP PC3. The City renumbered subsequent post-construction BMPs accordingly. This change also impacted the table numbering, eliminating the original Table 12c, revising Table 12d to Table 12c and Table 12e to Table 12d.</p> <p>A) The City modified the revised BMP PC4 (formerly PC5) to include tracking of projects in close proximity to riparian and wetland habitats throughout the 5-year permit cycle.</p> <p>B) The City modified the wording to read exactly as requested in the newly renumbered Table 12d (formerly Table 12e).</p>

Item	Subject	Required Revisions	Water Board Staff Responses
		BMP seeks to increase stakeholder awareness of the important functions riparian and wetland habitats provide to maintain water quality in the City's waterways and groundwater.	The revisions are in Table 12d, page 82 and Table 11 and 11b, pages 66 and 69 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.
12	Sweeping and Cleaning Activity and BMP GH2 (Table 15)	Street sweeping is only as good as the equipment used to collect the waste, as well as identification of where and when to deploy the equipment. The City must include MGs to assure the street sweeping equipment is properly maintained and that staff use information collected during sweeping to prioritize the sweeping frequency and areas requiring more attention (hot spots).	<p>The City added "equipment maintenance" to the list of activities included in Table 15. The City also added an analysis component to street sweeping measureable goals to assure street sweeping frequency is adequate and street sweeping is deployed in the appropriate areas.</p> <p>The revision is in Table 15, page 86 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
13	Municipal Employee Training, Standard Operating Procedures Handbook (MGs GH1A and GH2B)	As part of the City's Good Housekeeping (GH) responsibilities, the City indicates Public Works will develop BMP Guidance Documents (MG GH1A) and a Standard Operating Procedures (SOP) Handbook (MG GH2B) in Year 1. The City does not provide a MG to review and update the BMP Guidance Documents and SOP Handbook based on new information or experience by City staff. The City must revise the MG Implementation Timetables for MGs GH1A and GH2B to indicate the Public Works department will review and revise, as needed, the BMP Guidance Documents and SOP Handbooks periodically during the 5-year permit cycle.	<p>The City added two new MGs GH2B and GH3C to require the Community Development Department to review and revise, as needed, the BMP Guidance Documents and SOP Handbook periodically during the 5-year permit cycle.</p> <p>The revisions are in Table 16, pages 88-89 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
14	BMP GH3 Municipal Facilities BMP Intent (Table 16)	A) The BMP Intent associated with BMP GH3 for Municipal Facilities incorrectly lists post-construction management issues. The City must revise the BMP Intent to match the Municipal Facilities	A) The City modified the BMP Intent to read "Prevent or reduce pollutants generated from municipal facilities."

Item	Subject	Required Revisions	Water Board Staff Responses
15		<p>BMP Details listed in Table 16c.</p> <p>B) The City lists no BMP Implementation Timetable entry for Police Station Landscaping Inventory. The City must indicate the year public works staff will inventory the Police Station Landscaping.</p> <p>C) City does not list public facilities at the Cemetery or Stadium Park. The City must include all facilities for Public Works to inventory.</p>	<p>B) The City updated the Implementation Timetable to reflect the Public Works Department will inventory the police station landscaping in Year 5.</p> <p>C) The City does not maintain any public facilities at the Cemetery. Accordingly, the Cemetery was not incorporated into GH3. Stadium Park was added to the City's list, because improvements to this facility are likely during the permit term.</p> <p>The revisions are in Table 16, pages 88-89 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
	Develop Standard Handbook (MG GH3B in Table 16)	The MGs and Outcomes listed for the Municipal Facilities BMP incorrectly indicate details for post-construction BMPs (E&SC and LID). The City must correct the entry to indicate the City will develop a Standard Operations Procedures Handbook for each facility inventory.	<p>The City indicates the SOP Handbook will be a single document that encompasses all types of municipal operations. It is not facility specific. The City will develop facility-specific guidance documents that reference elements (BMPs) in the SOP Handbook.</p> <p>The revision is in Table 16, page 89 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
16	BMP GH1 Municipal Employee Training and Education (Table 16a)	A) The City indicates City management will conduct unscheduled inspections of facilities and municipal operations as part of BMP GH1D. The unscheduled inspections, however, do not have baseline information for comparisons or recommendations for improvements. The City must indicate the City managers will develop baseline conditions before evaluating the facilities or	A) The establishment of baseline conditions for municipal activities are included as part of GH2. The establishment of baseline conditions for municipal facilities are included as part of GH3.

Item	Subject	Required Revisions	Water Board Staff Responses
17	BMP GH3 Municipal Facilities (Table 16c)	<p>operations.</p> <p>B) The Municipal Employee training BMPs do not coordinate with other BMPs in the SWMP. We recommend the City add a Note at the bottom of Table 16a indicating it will provide educational opportunities for City staff to participate in Public Education and Public Participation BMPs.</p>	<p>B) Added recommended note to the notes section of Table 16a.</p> <p>The revision is in Table 16a, page 90 of the March 30, 2009 SWMP. The City's revision adequately addresses Water Board staff's Required Revision.</p>
		<p>A) BMP Details listed in Table 16c do not indicate the type of facilities the City will verify for complete Storm Water Pollution Prevention Plans. The City must indicate it will verify industrial facilities and City construction projects have complete SWPPPs.</p> <p>B) Table 16c Implementation Details do not match the BMP Implementation Timetable in Table 16. The City must indicate it will conduct inventories and develop SOPs in Years 1-5, as shown in Table 16. Additionally, the City should remove or revise the implementation action for Years 2-5 to "record quantities addressed/collected," which does</p>	<p>A) The City revised MG GH3 to require City inspectors inventory 13 municipal facilities (e.g., City Corporation Yard, public landscaping, parks, sewer lift stations, and roadway medians, planters and parkways) and establish baseline conditions at each (MG GH3A). The City also revised MG GH3B to "Develop Facility Water Pollution Control Manual [FPCM] for facilities not covered by Industrial [Stormwater General Permit] SWPPPs." Additionally, the City created a new MG, GH3C: to "review and update [municipal] facility water pollution control manuals."</p> <p>These revisions and complimentary activities under the City's Illicit Discharge Detection and Elimination program will address potential pollutants of concern from commercial and industrial facilities.</p> <p>B) The City responded: "SOPs are for activities, not facilities. Revised terminology in GH3 to clarify that SWPPPs will be required for all facilities required to have them, but other facilities, not subject to SWPPPs will develop Facility Pollution Control Manuals if the facility has a significant potential to release pollutants to storm drains. The Year 2-5 implementation detail is retained because it is important to</p>

Item	Subject	Required Revisions	Water Board Staff Responses
		<p>not appear pertinent to BMP GH3.</p> <p>C) The Assessment Measures detailed in Table 16c will confirm when the Facility Pollution Prevention Plan is developed, but provides no assurances it will be reviewed or amended based on new information, practices, or experience. The City must indicate it will review, amend, and record changes to each Facility Pollution Control Manual based on new information and experience using the manual. Note: the City uses Facility Pollution Control Manual (FPCM) throughout the SWMP, but uses a different term here. The City must standardize the use of the FPCM term.</p>	<p>collect and assess pollutant potential reduction of activities that take place at each facility in order to evaluate if changes to the facility (such as additional trash cans, incorporation of a spill kit, etc) are necessary.”</p> <p>This Staff Response to Item 17 does not address question (B) directly. However, Table 16c was revised to indicate Year 1-5 for the Implementation Details as requested (page 92).</p> <p>C) The City did not address this question in their reply. However, the term, Facility Pollution Control Manual, is standardized in the SWMP. Additionally, the City added they will review and revise the facility water pollution control manuals as necessary during Years 3 and 5 as part of the Implementation Details.</p> <p>The revisions are in Table 16c, page 92 of the March 30, 2009 SWMP. The City’s revision adequately addresses Water Board staff’s Required Revision.</p>
18	Miscellaneous	<p>We found many typographical, grammar, and punctuation errors throughout the SWMP. The most obvious are detailed here, with our suggestions noted in bolded, underlined type. The City needs to carefully review the document to improve its readability.</p> <p>The City must revise as follows.</p> <p>Page 5, footnote 6, misspelled Alteration.</p> <p>Pages 37-88, use the correct date</p>	<p>The City revised the date in the footers and addressed typographical errors.</p> <p>We noted the revisions throughout the March 30, 2009 revised SWMP. The City’s revision adequately addresses Water Board staff’s Required Revision.</p>

Item	Subject	Required Revisions	Water Board Staff Responses
		in footer. Pages 69-78, consistently use re-development spelling; make global changes of “new and redevelopment” to “new development and redevelopment.”	
	Acronyms: BMP - Best Management Practice City - City of Atascadero E&SC - Erosion and Sedimentation Control FPCM - Facility Pollution Control Manual General Permit - Phase II Small Municipal Separate Storm Sewer Systems General Permit LID - Low Impact Development MG - Measurable Goal MS4 - Municipal Separate Storm Sewer Systems SOP - Standard Operating Procedures manual SWMP - Storm Water Management Program		

Comments from Debbie Skinner

Comment 2: I am writing to express my concern with the CRWQCB's comments to City of Atascadero's storm water management plan dated March 9, 2009. Because I am a resident of beautiful Atascadero, I am especially interested in knowing that the City is taking its stewardship of the creeks and riparian habitats seriously in accordance with federal and state regulations and policies.

After reviewing the recommendations made by you, and the city's Table 12d-PC4, I would propose that no new permit applications in watershed areas be considered until the city has had the opportunity to clearly and consistently define the riparian and watershed areas with closer alignment to federal definitions and educate the public regarding the necessity and importance of these areas to our unique community. While your recommendations seem to provide a move in the right direction with regard to “tracking” development near riparian and wetland habitats for five years, and educating the public of the important functions that are provided by them; it falls short of actualizing the understanding already known to be necessary for protecting these habitats in a timely manner. The current provisions are better than no mention of these needed steps; however they are not acceptable in that they are vague compared with what is needed. Tracking will only allow a window period for development in an area which after further study it might be determined it was critical not to allow. After the fact is too late! It will be difficult to evaluate whether or not the city is mitigating damage with self proposed plans on projects that are already in progress with the city. Secondly, the city can identify and commit to work with local community groups interested in protecting the local natural resources, tapping into community resources that would be willing to work in partnership with them to provide education about how the watersheds and riparian habitats enhance the community and participates in the larger water process in our county.

The Regional Water Quality Control Board has the ability to encourage and educate the city to protect the riparian area wetland area now and loosen the requirements later just to be safe, rather than putting the city in the position of crying later after further significant damage has occurred. After all, "An ounce of prevention is worth a pound of cure."

As you know, the city recently intended (2007) to adopt a city ordinance which would have satisfied its commitment to ECOSLO to provide a 35 foot setback on three Atascadero creeks and a 50 foot setback from the Salinas River. Unfortunately, this effort was negated by a petition circulated by some special interests who were getting signatures by presenting inaccurate information to local residents about what the setback would mean for local property owners. Your leadership and guardianship of our water resources is invaluable to our community. I urge you to tighten and shorten the requirements of protecting our riparian habitat.

Staff Response 2: Riparian and wetland areas are protected under unique conditions in Atascadero. According to Section 3.5, the major named creeks (Atascadero Creek, Graves Creek, and Boulder Creek) "are located within creek reservation parcels established with the original recording of the Atascadero Colony subdivision in 1913. These parcels are designated as open space and no new development can occur within these parcels. There are 60 parcels in total ranging in width from approximately 50-feet to in excess of 250-feet and were sized to capture a majority of the riparian area within the reservation boundaries" (Atascadero Draft SWMP pg 17). In addition to the reservation parcels an additional 20-foot setback (measured from the creek reservation boundary), currently protects the Salinas River and other creeks and tributaries within the City. A majority of the Salinas River is located within parcels owned and managed by the Atascadero Mutual Water Company, which provides added protection from development.

At this time the only permitted exceptions to the current creek 20-foot setback regulations require a Conditional Use Permit and must be approved by the City's Planning Commission. To allow any development, the Planning Commission must find that creeks, riparian areas, and site improvements will not be negatively impacted by the exception based on information provided by a qualified biologist and geotechnical engineer.

In the City's Storm Water Management Program, BMP PC-4 (Table 12d) requires the City to "review [the] effectiveness of existing City standards for consistency with RWQCB required riparian buffer widths" by the end of Year-2. The Water Quality Control Plan for the Central Coastal Basin (Basin Plan)¹ section V. G. Erosion and Sedimentation, item 4 states, "A filter strip of appropriate width, and consisting of undisturbed soil and riparian vegetation or its equivalent shall be maintained, wherever possible, between significant land disturbance activities and watercourses, lakes, bays, estuaries, marshes, and other water bodies. For construction activities, [the] minimum width of the filter strip shall be thirty feet wherever possible as measured along the ground surface to the highest anticipated water line" (page V-12).

The City's current regulations include extensive creek reservation parcels and 20-foot setbacks. We agree with your concerns that the City must tighten their controls on potential development in the riparian corridors. Table of Required Revisions, Item 5, in our SWMP approval letter requires the City to revise MG PC4A to change existing City standards to be consistent with RWQCB riparian protection policies in the first two years. Additionally, the City's new MG PC4B requires the City to "track projects located in close proximity to riparian and wetland habitats."

¹ http://www.waterboards.ca.gov/centralcoast/publications_forms/publications/basin_plan/bp_pdfversion/ch5.pdf

Comments from San Luis Obispo Coastkeeper, March 30, 2009

Comment 3: Thank you for the opportunity to review and comment on the proposed Stormwater Management Plan of the City of Atascadero.

Atascadero Coastkeeper, a program of Environment in the Public Interest, is organized for the purpose of ensuring that the public has a voice with agencies and official[s] responsible for enforcing water quality, watershed and coastal planning regulations on the California Central Coast. As such, the SLO COASTKEEPER and our 800 central coast supporters are concerned that the proposed SWMP:

- Is impermissibly vague for some components.
- Does not clearly identify the proposed programs and the financial resources available to implement the proposed program.
- Fails to provide specificity to all types of education and outreach programs, mechanisms to measure effectiveness of BMP, and timeline of when it will be done.
- Fails to identify what and how many of the proposed measures will demonstrate the protection of water quality in Atascadero.

Specific comments, included below, outline the SLO Coastkeeper concerns. I urge the Regional Board to direct additional modification of the proposal to meet federally mandated MEP standards prior to final approval.

Staff Response 3: 1) The City's SWMP describes in detail how the City will manage stormwater runoff. It contains a full suite of BMPs and MGs to reduce pollutant discharges to the maximum extent practicable (MEP) and protect water quality from urban runoff. Water Board staff find that the program, with the specified required revisions, provides adequate detail and focus. As expressed in the General Permit, the Water Board staff expects SWMPs to evolve over the permit life and respond to new information and evolving conditions on the ground. The annual reports will convey programmatic details and allow the Water Board to determine if additional detail or BMPs are necessary to reduce pollutant discharges to the MEP and protect water quality.

2) The General Permit requires the City to submit a SWMP that meets the MEP standard and therefore include BMPs that are technically feasible and are not cost prohibitive. The General Permit contains no explicit requirement to demonstrate ability to pay. However, General Permit finding 24 requires the City to allocate funds for implementation and enforcement of their BMPs.

3) See Section 2.6 (pg 10) and BMP PP1. The City states they will develop an effectiveness assessment plan to assess effectiveness of individual BMPs. The City will document SWMP activities and establish methods to measure how the City's BMPs are raising awareness and changing behavior of the target audiences. The City also states they will develop long-term effectiveness assessment strategies throughout their first five-year permit cycle to assess the effectiveness of SWMP implementation on changing awareness and behavior of target audiences, pollutant load reductions, and water quality improvements. Specifically, the City addresses the General Permit requirement to implement a public education program in Section 4.1 Public Education and Outreach (page 34). The program goals are directed to increase knowledge and awareness of specific industries and target audiences (e.g., homeowners, commercial, school children, City employees) to water quality related issues, including pollutants of concern. Tables 7a through 7g (pages 37-43) provide the City's plans to assess the effectiveness of their BMPs, MGs, and the implementation milestones. The City provides

similar means to address effectiveness and the scheduling in tables for all other BMPs and MGs associated with Minimum Control Measures 2 through 6.

4) Early in our evaluation of the City's SWMP, Water Board staff required the City to develop assessments of program effectiveness where practical. In response, the City included Section 2.6 Review and Report on Program Effectiveness committing the City to establishing effectiveness measures for all BMPs where effectiveness assessments are appropriate. Based on the results of the effectiveness assessments, the City plans to update their BMPs on an annual basis. The City provides their initial measures of effectiveness as "Assessment Measures" in each descriptive BMP Table (e.g., Tables 7a, 7b, 7c, ... through Table 16c).

MCM #1: PUBLIC EDUCATION AND OUTREACH

Comment 4: [Public Education BMPs]

- 1) The Public Education and Outreach MCM is impermissibly vague.
- 2) It fails to determine effective measures
- 3) Must be revised to meet all the necessary requirements
- 4) Must be reoriented toward specific program development and implementation
- 5) Must be more specific about the audiences and must broaden its education plan to include actions targeted to specific audiences.
- 6) Targeted audiences need to be expanded to include at a minimum, the residential community, the commercial and business sector, the industrial sector, the development community, the construction sector and the government
- 7) Programs targeted to these specific audiences must be tailored to address specific problems associated with that audience, and can communicate these messages more effectively than programs targeted to the General Public.

Staff Response 4: Water Board staff find the City's Public Education and Outreach BMPs achieve the MEP standard. BMPs for MCM1 address Homeowners (PE3), Business and Commercial Activities (PE4), School Aged Children (PE2), and City (governmental) employees (PE1) as target audiences. Targeting these audiences should suffice for educating the general public. The City has committed to implementing the majority of their proposed education programs every year of the 5-year enrollment under the General Permit. In Section 2.6 Review and Report on Program Effectiveness, the City commits to establishing effectiveness measures for all BMPs where effectiveness assessments are appropriate. Based on the results of the effectiveness assessments, the City plans to update their BMPs on an annual basis.

Comment 5: PE1 Partner with Other Municipalities and Stakeholder Groups: Distribute stormwater pollution prevention public education and outreach information, materials, and activities.

- 1) [The City] must show commitment to the programs listed under the BMP and identify the specific intent of each program.
- 2) [The City] must provide [a] mechanism to adapt its educational program in the future and similar mechanisms facilitating the updating of the educational program.
- 3) [The City] must include a detailed public education and outreach program for years 1-5. Must have a comprehensive approach as to whom their program will reach, and what messages are necessary to meet MEP and protect water quality. All information must be explicitly incorporated into the stormwater management program for all five years in order to assure a definitive commitment to implement this program.
- 4) [The City] must specify how the public will be informed about the programs.

- 5) Each program must indicate what measures it will collect to determine the success of the BMP.

Staff Response 5: 1) The City has detailed their commitments to implementing BMP PE1 in Table 7a. This includes executing the majority of their proposed education programs every year of the 5-year enrollment under the General Permit. 2) In Section 2.6 Review and Report on Program Effectiveness and in Table 7a, the City commits to establishing effectiveness measures for all BMPs where effectiveness assessments are appropriate. 3) Please refer to Staff Response 4. 4) The City will work with other municipalities in San Luis Obispo County to coordinate additional education and outreach to the public through the Partners for Water Quality and the county-wide technical advisory committee. 5) See staff response No. 2 above.

Comment 6: PE2 Public School Outreach.

- 1) [The City] must specify when the presentation will be held and how many times it will occur in a year. The scheduling as well as measures all must be reported annually.

Staff Response 6: 1) The City, as well as San Luis Obispo County, has developed extensive education programs to implement during their first 5-year permit cycle. However, participation is contingent upon obtaining permission from the schools, which are State agencies. These programs aim to complement existing curricula standards. However, as experienced in Monterey County, schools have significant limitations on time available for outside programs. Depending on school acceptance and success of this program, the program may change and specific timing and frequency is not available until the City and schools work out the details. The City is required to report all activities associated with the BMPs in their approved SWMP.

Comment 7: PE3 Homeowner Outreach

- 1) [The City] must be more specific about who the target audience is, must specify who homeowners are.
- 2) [The City] must specify in detail the various types of workshop to be held in regards to stormwater public outreach and education. There should be two workshops per year – first meeting as informational and second as participatory.
- 3) [The City] must be more specific about how the BMP is measured. It is unclear of how distributing materials will increase awareness.
- 4) [The City] must indicate how all the information will be outreached to the general public.

Staff Response 7: 1) In Table 7c, the City identifies homeowners as residents at all City addresses. 2) The SWMP states the City will conduct outreach activities through BMPs listed under MCM 3 Public Involvement/Participation. 3) The assessment measures for BMP PE3 are initially Confirmation and Tabulation. The SWMP Development Process Section 2.6 details City's goals and methods to further demonstrate the effectiveness of BMP PE3 and all other BMPs. 4) Please refer to Staff Response No. 4.

Comment 8: PE4 Business Outreach

- 1) [The City] must be more specific about what type of information will be provided in the distributed materials.
- 2) [The City] must specify who the target audience is.
- 3) [The City] must specify what is being measured and how it will be evaluated.

Staff Response 8: 1) The City lists common local businesses known to generate contaminants that may contact stormwater. These include: landscape care, mobile cleaners (pet wash, carpet cleaning, auto detailers, pressure washing, etc.), contractors, automobile maintenance, pest

control, restaurants, kennels and veterinarians, dry cleaners, and construction sites. 2) The City will target the employees and providers of these services. 3) Please reference staff response to Comment numbers four through seven for details about the City's requirement to enhance their effectiveness assessment approach to measure the success of their BMPs.

Comment 9: PE5 Animal Waste

- 1) [The City] must indicate where and when the public education campaign regarding pet waste will occur. 2) How this BMP measure[s] effectiveness is still unclear.

Staff Response 9: 1) BMP PE5 addresses controlling potential contamination of stormwater by fecal coliform indicator bacteria. The BMP provided a means for controlling the sources of bacteria by encouraging proper pet waste disposal and limiting the number of feral animals by working with Woods Humane Society. The City will implement outreach BMP PE3 as discussed in staff response 7. 2) Please reference staff response to Comment numbers four through seven for details about the City's requirement to enhance their effectiveness assessment approach to measure the success of their BMPs.

Comment 10: PE6 Establish Resource Library

- 1) [The City] must implement educational component using all media as maximally practicable to measurably increase the knowledge of the target communities and change the behavior of target communities and thereby reduce pollutant releases to Municipal storm sewers and the environment.
- 2) All events attended, programs identified and participated, and all distributed resources regarding stormwater management must be reported in the annual report.
- 3) All evaluation results and measures must be recorded in the annual report and have it available for public to review.

Staff Response 10: 1) BMP PE1 requires the City to "use collaborative regional partnerships to leverage shared resources." The City's plan includes participation with San Luis Obispo County and the San Luis Obispo County Partners for Water Quality. BMP PE3 also requires the City to broadcast educational messages over public access television Channel 20. These combined resources provide a broad opportunity to educate and outreach to a wide variety of target audiences. Additionally, staff response to comments four and five indicates the City's strategy to measure its effectiveness at increasing knowledge and changing behavior. 2) The City is required to report all activities associated with the BMP in each annual report. 3) Please reference staff response to Comment number four for details about the City's requirement to enhance their effectiveness assessment approach to measure the success of their BMPs and report on findings and improved BMPs in annual reports.

MCM #2: PUBLIC INVOLVEMENT/ PARTICIPATION PROGRAM

Comment 11: [Public Outreach BMPs]

- 1) [The City] fail[s] to include any compliance of all state and local public notice requirements

Staff Response 11: BMP PP1 states the City will comply with State and local public notice requirements when implementing public involvement activities. Water Board staff finds BMP PE1 includes adequate detail for this stage in the SWMP implementation process.

Comment 12: PP1 Public Notice and Stakeholder Meetings

The objective of the Public Participation and Involvement MCM is to include the public in developing, implementing, and reviewing the stormwater management program.

- 1) The BMP intent must be more specific with program development and implementation to raise public awareness about urban runoff through implementation process. This public involvement must provide the opportunity to generate support of the stormwater management plan to protect water quality.
- 2) [The City] must include public workshops and annual report must be posted on the website and in City offices at least one month prior
- 3) [The City] must provide an opportunity for the public to provide mid-year input on the status of the program and the effectiveness of the BMPs
- 4) [The City] must include mechanisms for engaging the general public in activities by providing advertising and incentives for the public to increase participation

Staff Response 12: Water Board staff finds the City's Public Participation and Involvement BMPs meet the MEP standard.

Comment 13: PP2 Storm Drain Markings

- 1) [The City] must indicate how the effectiveness of BMP is measured.

Staff Response 13: Please reference staff response to Comment numbers four through seven for details about the City's requirement to enhance their effectiveness assessment approach to measure the success of their BMPs.

Comment 14: PP3 SLO County Creek Day

Although listed, Coastkeeper provided no comments.

Comment 15: PP4 Adopt a Creek/Road Program

Although listed, Coastkeeper provided no comments.

Comment 16: PP5 Technical Advisory Committee (TAC)

- 1) [The City] must include at least two meetings annually.
- 2) [The City] must indicate mechanisms that show commitment.

Staff Response 16: Water Board staff finds the City's commitments to develop and participate in the Technical Advisory Committee meets the MEP standard.

Comment 17: PP6 Snapshot day

- 1) [The City] must specify how the public will be aware of such programs and events also provide mechanisms to increase participation in the future.
- 2) [The City] must specify the effective measures and record it on the annual report.
- 3) [The City] must include how the measures will be recorded and how it determines the success of the BMP and MCM.

Staff Response 17: Snapshot Day is organized and financed mainly by the Monterey Bay Sanctuary Citizen Watershed Monitoring Network (Sanctuary). In San Luis Obispo County the south coastal water sampling efforts are organized by the Upper Salinas-Lower Las Tablas Resource Conservation District (US-LT RCD). The Sanctuary is responsible for all measures to analyze, disseminate, and interpret the water sampling results. Water Board staff finds the City's commitments to participate with US-LT RCD in Snapshot Day meets the MEP standard.

Comment 18. Reserved

MCM #3 ILLICIT DISCHARGE DETECTION AND ELIMINATION PROGRAM (IDDE):

Comment 19: [IDDE BMPs]

- 1) MCM [3] lacks in providing how plans or programs will eliminate discharges. It provides that it will detect illicit discharge and who will detect the discharges however lacks to specify how it will be eliminated.
- 2) The objective of this MCM is to adopt and enforce ordinances and to implement a program to detect and eliminate illicit discharge. The document includes these objectives but lacks the mechanisms to assure Regional Board of the public that eliminating illicit connection/discharge will result.

Staff Response 19: 1) The City's BMPs ID2 requires the City to look for, respond to, and follow-up on reports of illicit discharges. 2) The City's response to our March 9, 2009 Required Revisions (see Table 1 and Attachment 2) includes a redrafted BMP ID3 that requires the City to adopt an ordinance "that prohibits non-storm water discharges into the MS4 that are found to be potential contributors of pollutants to the MS4." BMPs and Measurable Goals associated with MCM 3 provide the City authority to eliminate illicit and illegal discharges.

Comment 20: ID1 Tracking Records and Databases

- 1) [The City] must provide the map in year 1.
- 2) [The City] must include an explicit commitment to respond to and eliminate 100% of all illicit discharges and/or connection detected as a result of the complaints.
- 3) [The City] must specify in previous MCM that hot line will be implemented.
- 4) [The City] must include the requirement that municipalities report on the use of the hotline in their annual report.

Staff Response 20: 1) BMP ID1 requires the City to provide its GIS-based storm drain and receiving water atlas/database in the Year 1 annual report. The City's BMP exceeds requirements to identify only outfalls specified in the General Permit. 2) BMP ID2 commits the City to "investigate and require corrective action when appropriate for 100% of illicit discharges identified," starting in Year 2. 3) The City's SWMP provides a note in Table 10b ID2 Education and Training requiring the City to advertise a phone number to receive illicit discharge reports. Initially, the calls will be routed to the Atascadero Mutual Water Company. The City commits to establishing a separate "hotline" if the calls exceed the Water Company's capacity to route and respond to the reports. 4) While Water Board staff is not requiring the City to report all complaints and concerns with their annual report, the City is required to report on every BMP in their annual reports and if appropriate, provide examples of SWMP implementation in the annual report. This includes general reporting on the implementation of the hotline, as well as status of achievement of MGs associated with hotline implementation. In addition, the City is always responsible for retaining more detailed evidence of BMP implementation on the site, pursuant to the General Permit and in the event of a Water Board audit.

Comment 21: ID2 Education and Training

- 1) [The City] must specify through tests or quizzes to show effectiveness of training sessions.

Staff Response 21: The City's BMP ID2 requires training sessions to include results from evaluation forms and pre- and post-training tests (see SWMP Table 10b).

Comment 22: ID3 Illicit Discharge Ordinance

- 1) [The City] must develop a policy outlining what discharges are permitted into the Storm Sewer and what discharges are considered illicit by year 1. There is no reason why the

ordinance cannot be implemented in year 1. Implementing an ordinance should not take three years.

- 2) [The City] must adopt a temporary ordinance to enforce BMP measures while new or revisions are in progress.
- 3) [The Coastkeeper] urges [the City] to include more specific enforcement and penalty provisions to eliminate illicit discharge.
- 4) [The SWMP is] unclear about how BMP [ID3] will eliminate illicit discharge. [The City] must specify education and enforcement mechanisms and show effectiveness.

Staff Response 22: 1) Water Board staff finds the City's time frame is reasonable since the City has existing municipal code and ordinances that regulate and prohibit inappropriate waste disposal (see response to Item #2 below.) The City will need the time in the next two years to update its codes for grading, drainage, erosion control, and interim hydromodification. In addition, the City indicates the only permitted discharges to the storm drains are clean stormwater and authorized non-stormwater (i.e., fire fighting flows). In SWMP Table 9, the City also addressed a list of non-significant non-stormwater discharges. The City will not consider these illicit discharges unless the City determines they become significant contributors of pollutants (e.g., de-chlorinated water line flushing, air conditioning condensate, foundation drains, springs, and individual residential car washing).

2) Water Board staff believes that a temporary ordinance would be unnecessary and inefficient since the City currently has a number of ordinances prohibiting inappropriate waste disposal, including prohibitions against unpermitted discharge of liquid waste and disposal of solid waste. The City's existing authority for avoiding, detecting, and eliminating illicit discharges and illegal connections are contained in:

- a. Title 5 (Public Welfare), Chapter 8 prohibits waterway intrusions such as, "the accumulation, storing, placement, dumping or disposing of pollutants in the riparian corridor," and includes penalties;
- b. Title 6 (Health and Sanitation), Chapter 4 regulates solid waste collection, and Chapter 8 establishes cross-connection control and inspections for the public water system;
- c. Title 7 (Public Works), Chapter 8 identifies prohibited discharges and highlights storm water as a regulated discharge;
- d. Title 9 (City Planning and Zoning Ordinance) implements development review, permitting requirements, and construction measures that pertain to the control of drainage and erosion from development projects, as well as the maintenance of protective devices such as drainage structures; and
- e. Title 10 (Parks and Recreation) regulates activities in the City's parks, and specifically prohibits throwing or discharging any litter, garbage waste, motor oil, or other contaminating or polluting substance into the waters of Atascadero Lake or any stream.
- f. The Atascadero Municipal Code also contains enforcement mechanisms in Title 12 and specific penalties in Title 12, Chapter 1. In addition, Title 12, Chapter 2 allows the City to enforce applicable State codes.

3.) The City's existing codes, as mentioned in staff response 22, Item 2f, provide regulations to enforce inappropriate disposal and discharge of liquid and solid wastes. BMP ID3 requires the City review these existing enforcement measures and revise them to be specific to the detection and elimination of deleterious non-stormwater discharges. Water Board staff finds the City has adequately addressed enforcement and penalty provisions to strengthen their IDDE ordinances.

4) The IDDE ordinance will eliminate unpermitted discharges by a combination of enforcement and education components. The educational components will be bolstered by the collection of

data, from evaluation forms and surveys conducted before and after training, to demonstrate BMP effectiveness in raising awareness and behavioral changes. Also, refer to the numerous assessment measures listed in Table 10a the City will use to track the effectiveness of the enforcement of its IDDE ordinance.

Comment 23: ID4 Recycling and Household Hazardous Waste

- 1) [The Coastkeeper] urges [the City] to provide a stronger educational component regarding Recycling and Household Hazardous Waste for the public.
- 2) [The City] must specify how reduction of pollutants will be detected and show commitment for the entire permit year.

Staff Response 23: 1) BMP ID4 states the City will partner with the San Luis Obispo County Integrated Waste Management Authority (IWMA) to offer citizens the opportunity to recycle and dispose of hazardous waste. A County ordinance promulgated through the IWMA requires businesses, educational facilities, and households to separate recyclables for curbside pickup. The IWMA also provides facilities (e.g., Chicago Grade Landfill in Atascadero) for collection and disposal of hazardous waste. Mandatory recycling and diversion of hazardous wastes are on-going programs. IWMA also has an extensive educational program developed to correlate with the California Science Content Standards offered to County and Atascadero schools. 2) The IWMA records the volume of recyclables diverted from landfills. The City's response to our March 9, 2009 Request Revisions (see Table 1 and Attachment 2) expands the requirements for City staff to report and prioritized illegal disposal of wastes.

Comment 24: Reserved

Comment 25: ID5 Hazardous spill protection and control

- 1) [The City] must include a requirement for prioritizing those businesses that are known, from observation in the municipality or from other programs, to result in illicit discharges.
- 2) [The City] must include a program for monitoring the entire municipal storm sewer system.
- 3) [The City] must explicitly provide for follow-up of investigations.
- 4) [The City] must contain commitments of BMP measure.
- 5) [The City] must report annually all the results.

Staff Response 25: 1) In BMP ID1, the City commits to tracking and responding to 100% of reports of illicit discharges. This includes prioritizing and following-up on facilities and locations with poor discharge history. 2) Mapping efforts established in BMP ID1 require the City to chart and document the entire storm sewer system in Atascadero. 3 and 4) The Assessment Measures detailed in Table 10a required the City to account for "[the] number and types of complaints received, method of complaint, investigation, pollutants or activity involved, response time and resolution provided, confirm follow up inspection took place." 5) The City is required to report all activities and results associated with the BMPs in their approved SWMP.

MCM #4: CONSTRUCTION SITE STORMWATER RUNOFF CONTROL PROGRAM

Comment 26: [Construction Site BMPs]

- 1) [The City's] intent must state that it will develop and implement a program to reduce pollutants to MEP and assure compliance with water quality standards through the implementation components: 1) ordinance adoption 2) Construction site BMP policies and procedures guidance document 3) site plan review 4) site inspection and enforcement 5) education focused on construction activities 6) pollution prevention.

Staff Response 26: Water Board staff finds the City's Construction Site Runoff Control BMPs meet the MEP standard.

Comment 27: CON1 Discretionary Review Tools

- 1) [The City] must modify ordinance within year one or develop a template ordinance.
- 2) [The City] must develop construction site BMP policy and procedure guidance manual within year one.
- 3) All ordinance that needs revision or adoption must be completed within year one of adoption of draft proposal.
- 4) [The City] must specify what type of specific brochures will be made and indicate specific target audience.

Staff Response 27: 1) BMP CON1 requires the City's to evaluate their municipal code in Year 1. If necessary the City will adopt new ordinances in the following year. 2) Water Board staff finds the City commitments to adopt a BMP manual in Year 2 consistent with first year activities, as well as the need to coordinate the manual with post-construction (MCM 5) elements of the City's SWMP. 3) The SWMP requires the City to adopt new code or ordinance in the Year following evaluation of current municipal regulations. 4) The City's response to our March 9, 2009 Request Revisions (see Table 1, Items 3 through 7 and Attachment 2) expands the Notes in Table 11a to also state, "BMP Reference Manuals and construction site E&SC [Erosion and Sediment Controls] and post-construction practices brochure will be posted on the City's stormwater webpage as part of PE6 "Establish Resource Library." Construction site management brochures will be distributed with grading permit application packages as part of PE4 "Business Outreach."

Comment 28: CON2 Construction Site Inspection and Enforcement

- 1) [The City] must specify a stronger development and implementation of a construction site inspection program that meets MEP and assures compliance with water quality standards.
- 2) [The City] must develop a construction and grading review/approval process of construction plans to ensure that pollutant discharges be reduced to the MEP and assure compliance with water quality standards.
- 3) The review process must specify ordinances, construction and grading project requirements, and verification of permits and plans.
- 4) [The City] must record all results on annual report.

Staff Response 28:

1) As described in BMPs CON1 and CON2, City staff will receive construction site training with annual refreshers beginning in Year 1. Additionally, the Municipal Code, once revised in Years 1 and 2 (MG CON1A), will address the long-term operation and maintenance of structural and nonstructural control measures and enforcement for non-compliance. 2) As described in BMP CON3, the City will "Require Erosion and Sediment Control Plans be submitted and approved for 100% of projects requiring a grading plan, prior to commencing earth disturbing activities." 3) Please refer to Staff Response to Comment No. 27, items 3 and 4). The City is required to report all activities and results associated with the BMPs in their approved SWMP.

Comment 29: CON3 Erosion and Sediment Control Plans

Although listed, Coastkeeper provided no comments.

Comment 30: CON4 Construction Site Complaint Mechanism

Although listed, Coastkeeper provided no comments.

MCM #5 POST-CONSTRUCTION STORMWATER MANAGEMENT FOR NEW AND REDEVELOPMENT PROGRAM

Comment 31: We applaud for the inclusion of requirements for “Low Impact Development.”

- 1) [The City] fails to provide more information regarding the implementation of LID and hydromodification. The projects required to meet hydromodification criteria must be specified.

Staff Response 31: 1) The City’s response to our March 9, 2009 Request Revisions (see Table 1. Items 9 and 10 and Attachment 2) revised many of the proposed post-construction BMPs in the Draft SWMP. Please review staff responses to the Home Builders Association comments numbers 41 through 49 below.

Comment 32: PC1 Post Construction Ordinance

- 1) [The City] must include a temporary ordinance or a set of guidelines that all previous projects prior to the adoption of LID design guidance must comply with LID standards.

Staff Response 32: See response to Comment number 31.

Comment 33: PC2 Discretionary Review Tools

- 1) [The City] must require a self-certification.
- 2) [The City] must include site visit/inspections to meet MEP and protect water quality.

Staff Response 33: 1 and 2) The City’s response to our March 9, 2009 Request Revisions (see Table 1 and Attachment 2) included a new Measurable Goal PC3F that requires the City to “Visually inspect private priority post-construction BMPs and private post-construction BMPs who failed to comply with self-certification program requirements. Educate private BMPs owners of proper maintenance techniques.”

Comment 34: PC3 Post Construction Stormwater Management Site Inspections
Although listed, Coastkeeper provided no comments.

Comment 35: PC4 Post-Construction Stormwater Management BMP Maintenance

- 1) [The City] must complete the standard field inspection checklist by year one.
- 2) All inspection must be performed by trained staff and ensure qualification.
- 3) [The City] must provide specific procedures for review of post-construction management in the development review process.
- 4) [The City] must adopt a plan for review of construction projects to ensure that pollutants and runoff from the development will be reduced to the MEP and will not cause or contribute to exceedance of water quality standards.

Staff Response 35: 1) BMP Details for BMP PC3 listed in Table 12c require the City to establish standard field inspection forms and train City inspection staff in post construction site stormwater maintenance practices. The BMP also requires the City develop a series of post-construction monitoring protocols, enforcement standards, inventories of BMPs and maintenance plans, and opportunities to educate owners on proper maintenance techniques, all by the end of Year 2. Water Board staff feel this is adequate timing in consideration of the City’s need to develop interim hydromodification control criteria in Year 1. In the first year, Water Board staff will work with the City to provide construction and post-construction checklists for structural and non-structural BMPs similar to our efforts to assist other MS4s. 2) City inspection staff will receive training as part of BMPs PC2 and PC3. 3) See response to

Comment number 31. 4) Please review our staff responses to comment numbers 27 and 28 for BMPs CON1 and CON2, which require the City to consider the construction of post-construction BMPs designed to reduce pollutants as part of the construction elements at project sites.

Comment 36: PC5 Protect Riparian Areas, Wetlands Buffer Zones

- 1) [The City] must review existing policies and all revisions must be completed within first year of adoption of draft proposal.
- 2) [The City must] develop an inspection program to monitor all permit issued along creeks to ensure water quality standards

Staff Response 36: 1) The Implementation Details listed in Table 12d for BMP PC4 (revised from former Table 12e for BMP PC5), requires the City to "Review existing policies and setbacks for appropriateness and to ensure that they meet or exceed RWQCB riparian protection policies." 2) The City's response to our March 9, 2009 Request Revisions (see Table 1, Item 11 and Attachment 2) includes additional Implementation Details in Table 12d to clarify that BMP PC4 will "track projects with improvement[s] located within 30-ft of riparian and wetland habitats in Years 1-5." The revised Measurable Goals for BMP PC3 include requirements for inspection, training, registering the maintenance status of public and private post-construction BMPs, and procedure and policy reviews. See response to Comment 35, also.

MCM #6 POLLUTION PREVENTION / GOOD HOUSEKEEPING FOR MUNICIPAL PROGRAM

Comment 37: GH1 Municipal Employee Training and Education

- 1) [The City] must [be] specific how effectiveness of programs will be measured to meet BMP.
- 2) [The BMPs for this] MCM [are] vague and fail to meet the federally mandated MEP standard. We urge that specific pollution prevention programs be included and identified that meet the MEP standard.
- 3) [The City] must commit to training specific categories of employees.
- 4) [The City] must identify the categories of employees to be trained and provide mechanisms to commit in training specific categories of employees.
- 5) [The City] must record all activities in the annual report to assure commitment of programs and education of employee training.

Staff Response 37: 1) Please reference staff response to Comment number four for details about the City's requirement to enhance their effectiveness assessment approach to measure the success of their BMPs. 2) and 3) The City's Good Housekeeping and Pollution Prevention for Municipal Operations BMPs provide adequate detail and meet the MEP standard (refer to Table 1, Item 16B). 4) Table 13 lists many of the City facilities and therefore staff covered under BMP GH1. The SWMP lists multiple training opportunities directed specifically for staff as well as additional educational opportunities via Public Education and Public Participation BMPs. 5) Please refer to Staff Response to Comment 20 item 4.

Comment 38: GH2 Municipal Activities

- 1) [The City] must include how BMP measures effectiveness in regard to the addition of these programs.

Staff Response 38: 1) In addition to the detailed listing of Assessment Measures provided in Tables 16a through 16c, please refer to Staff Response to Comment 20 item 4.

Comment 39: GH3 Municipal Facilities
Although listed, Coastkeeper provided no comments.

Comments from Homebuilders Association of the Central Coast March 30, 2009

Comment 40: Commendations for Explaining the City's SWMP Process: The Home Builders Association commends the city staff and consultant for an excellent job explaining the city's process developing its storm water plan.

Staff Response 40: Comment noted.

Comment 41: Request withdrawal of requiring hydromodification controls for redevelopment/infill/smart growth projects: This association raised this issue of the Environmental Protection Agency (EPA) comments in Morro Bay's SWMP, but the Water Board staff did not respond to this point in the February 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3 reply to input from the association and others. Therefore, we continue to address this substantive regional issue.

Current land planning philosophies being encouraged and mandated on cities and counties promote infill and redevelopment in order to reduce the negative environmental impacts of sprawl. The Water Board's failure to exempt most infill and redevelopment from hydromodification, matching pre-development hydrology, replicating natural hydrology, and impervious coverage limitations will result in less smart growth being proposed and accomplished. It is our experience that such an approach will make compact urban development (smart growth) fiscally difficult-to-infeasible to achieve. Bankers and investors will shy away from such projects which will result in builders not proposing the project.

Our smart growth concern is documented in the EPA publication EPA 231-B-05-002 "Using Smart Growth Techniques as Stormwater BMPs". A table with the heading "Language *Hindering* Creation of Joint Smart Growth and Stormwater Policies" (emphasis added) lists among those hindrances:

- "Language specifying that post-development hydrology match the pre-development hydrology";
- "Language requiring that BMPs replicate natural systems or non-structural natural BMPs"; and
- "Impervious coverage limitations"

Additionally, the EPA publication sites the Wisconsin Department of Natural Resources as an example of incorporating infill into Stormwater Regulations. Those regulations state (emphasis added):

- 1) "For the infiltration standards, redevelopment sites *are exempt*" and
- 2) "The peak discharge standards *do not apply to*: Sites classified as redevelopment and infill development less than five acres".

The Water Board, Atascadero, and other cities should not ignore EPA's own publications and recommendations. Ignoring such recommendations will make it harder for local governments to create the "Sustainable Community Strategies" that state Senate Bill 375 requires to reduce green house gas emissions and tackle climate change. We recommend hydromodification control requirements not be applied to urban infill and redevelopment projects.

Staff Response 41: Water Board staff agrees that these are significant issues, and we have spent considerable time working through these issues with municipalities over the last several

months. To address these issues, we modified our approach regarding hydromodification control (relative to our February 2008 letter) in more recently approved SWMPs. The Required Revisions do not dictate specific applicability requirements, and instead provide the opportunity for MS4s to develop applicability criteria that strike an appropriate balance of social, economic, and environmental goals. Water Board staff acknowledges that in determining compliance with the MEP standard, we and the municipalities must take into account a range of issues potentially constraining local governments' choices about land use development. Water Board staff also recognizes that cities are influenced by State and Federal requirements for affordable housing as well as State mandates and policies affecting, among other things, transportation infrastructure, greenhouse gas emissions, water supply, and public safety. Water Board staff understands these requirements affect development patterns. For this reason, the Water Board is now requiring SWMPs to include BMPs to engage municipalities in long-term watershed planning, to provide a context for weighing the multiple objectives affecting development patterns.

Table 2 at the end of these Staff Responses to comments presents examples of applicability criteria that might achieve this balance. These examples include a range of well-defined criteria by which a city could determine applicability of hydromodification control and/or water quality treatment requirements. These examples begin by defining project categories, then identify size thresholds and specific information required to exempt a project from hydromodification and/or water quality treatment requirements.

Water Board staff does not support exempting all or most infill and redevelopment from hydromodification control but expects municipalities to consider the local conditions and determine when and which conditions apply to the infill area or sites under consideration. Also see Staff Response to Comment 49.

Water Board staff acknowledges that no stormwater management strategy, or suite of approaches, has been identified that can achieve full hydrologic mitigation for the impacts of urbanization. While recognizing the challenges of applying LID in certain circumstances, for example in poorly drained soils, staff nonetheless considers LID to represent a more comprehensive effort at mitigating the hydrologic impacts of urbanization.

At the May 8, 2009 Water Board public hearing, for approval of the City of Grover Beach's SWMP, Water Board staff explained that EPA recognizes the importance of incorporating LID tools and replicating natural systems and the appropriateness of these techniques in urban, high-density settings. Water Board staff also explained that EPA finds there should not be a choice between meeting Smart Growth demands and implementing LID principles, and, although the menu of LID tools might be smaller for infill situations, there are still options of providing infiltration and replicating natural systems.

The Home Builders Association inappropriately highlights language in EPA's publication, "Using Smart Growth Techniques as Stormwater Best Management Practices," that explains the hindrances LID can pose to infill and redevelopment projects. The Home Builders Association has taken this language out of context, and neglected to draw attention to the previous page (page 46) of EPA's publication that outlines the importance of regulatory language that links Smart Growth and stormwater policies. Like other development tools, LID may have its challenges when taken to the extreme; therefore, the City must develop appropriate applicability criteria for applying LID and hydromodification control criteria. The above mentioned EPA publication provides other justifications for the benefits of incorporating LID principles in Smart Growth developments. For example, the EPA publication states, "When low impact techniques

and creative landscape design accompany a redevelopment project, the water quality performance at the watershed and site level is enhanced (page 19).” In the following passage, EPA emphasizes the importance of controlling hydromodification by using LID techniques for any project that could compromise a watershed:

“Some lots may not be critical for natural handling of stormwater, but may be in an area with waterways that are already compromised by development-related stormwater runoff. In this case, there are an increasing number of green building techniques and LID options for onsite stormwater control. Developers and their landscape architects should look at common urban development features, such as courtyards, small water features, and tree planting areas for stormwater control. Since these features are likely to already be included in site plans, small design modifications to handle runoff can improve your project’s performance. The Center for Watershed Protection has developed several documents under its “Smart Sites” initiative, which can be found at www.cwp.org/smartsites.pdf (page 45).”

Water Board staff subscribes to the following “Hydrologic Philosophy of Smart Growth,” as presented by Richard McCuen.² As this philosophy and its associated seven principles directly parallel the guiding principle of LID, to mimic the natural hydrograph, Water Board staff finds that LID and hydromodification control are fundamentally consistent with Smart Growth strategies.

Hydrologic Philosophy of Smart Growth:

If society is to control urban sprawl, then guiding principles of smart growth are needed. These principles will form the basis for a philosophy of smart growth. Seven principles related to hydrologic aspects of smart growth include:

Principle 1: Control Runoff at Microwatershed Level

Principle 2: Consider Hydrologic Processes in Microwatershed Layout

Principle 3: Maintain First-Order Receiving Streams

Principle 4: Maintain Vegetated Buffer Zones

Principle 5: Control Spatial Pattern of Hydrologic Storage

Principle 6: Control Upland Flow Velocities

Principle 7: Control Temporal Characteristics of Runoff

The City is still required to develop interim hydromodification control criteria to protect their watershed during the development of long-term hydromodification control criteria. The City has several reasonable options for developing its interim hydromodification control criteria, as described in our February 15, 2008 letter.

Comment 42: Request that CCRWQCB staff provide the public record with supportive documentation: Staff’s response to this request in its February 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3 was disappointing. On Page 15 of Attachment 3, the staff states that it “believes dissemination of the information requested may support greater understanding of hydromodification requirements. However, dissemination of the information would not cause Water Board staff to recommend substantive changes to the City’s SWMP.

² For further explanation refer to: Richard H. McCuen, *Smart Growth: Hydrologic Perspective, Journal of Professional Issues in Engineering, Education and Practice*, Vol. 129, No. 3, July 1, 2003. ©ASCE, ISSN 1052-3928/2003/3-151–154.

Therefore, Water [B]oard staff finds it unnecessary to make available the requested information in the context of approving the City's SWMP."

Since the Water Board staff has not complied with this request, we continue to ask that the Central Coast Water Board introduce into the public record for Atascadero's SWMP the economic and technical information and research that the board publicly referenced regarding post-construction stormwater management on Page 3, Item 12, in the Oct. 17, Lompoc Resolution R-3 2008-0071. We assume Atascadero's resolution will substantially resemble Lompoc's, where the Water Board stated that it:

1. "...has been evaluating, as demonstrated in the administrative record, the various options for control of water quality conditions affected by post-construction stormwater discharges and has concluded that controlling hydromodification typically associated with urbanization is reasonably achievable."
2. "...considered economics and found that the best information available indicated that controlling hydromodification through, among other approaches, implementation of LID principles, is technically feasible, practicable, and cost-effective"; and
3. "...found that the required revisions would not affect regional housing supply. Hydromodification controls have been applied in this and neighboring regions with no demonstrated affect on housing availability."

We doubt that the CCRWQCB staff really meant to imply that it has its mind made up and is unwilling to consider changing it if qualified industry experts present new information after examining the public record. We believe that upon reconsideration, staff will see that as a tax-supported public agency, it has a legal and public service responsibility to present information in the administrative record to the public when it is requested.

We request that the public record include (a) the methodology and standards used to determine what is "reasonably achievable" in item A above, (b) what "best information available" was used to determine what is "technically feasible, practicable and cost-effective" and how it was determined to be the best information available in item B above, and (c) what data and methodology were used to decide that hydromodification controls will not impact housing supply or availability and which communities are referenced "in this and neighboring regions" in item C above.

Staff Response 42: See the Executive Officer's July 10, 2008 letter (and its Attachment: An Example Approach for Including Quantitative Measures of Healthy Watersheds in Stormwater Management Programs), which includes 31 citations addressing the technical basis of hydromodification requirements. A modified version of the July 2008 list, along with additional references that staff uses, is included at the end of these responses to comments. This list is not all-encompassing, but provides a representation of references Water Board staff uses and has used.

As part of the Porter Cologne Clean Water Act, Section 13241, Water Boards are asked to consider the effect on housing needs when establishing water quality objectives. The Phase II MS4 General Permit does not require Water Boards to consider the effect of enrollment under the General Permit on housing needs; however, to be conservative, Water Board staff did consider these factors when developing expectations for numeric criteria to protect watersheds from the impacts of hydromodification. As shown in many of the references provided at the end of this document, incorporating LID principles in site designs should not have an effect on housing supply, because implementing LID principles typically does not substantially increase the costs of development, and thus should not effect housing affordability. Also, some of the

listed references point to economic advantages of LID. In the United States Environmental Protection Agency's (USEPA) paper titled, "Reducing Stormwater Costs through LID Strategies and Practices," USEPA provides costs analysis between using LID techniques compared to conventional methods for managing runoff. In most cases, USEPA found that implementing well-chosen LID practices saved money for developers and property owners (Reference #38). For the past several years Santa Clara County has required design specifications for implementing LID and has not demonstrated a loss of housing supply. Additionally, because each MS4 will develop applicability criteria for imposing LID and hydromodification requirements on redevelopment and infill projects, MS4s can minimize the potential impact of these requirements on these projects to ensure new criteria does not effect housing supply. However, in cases where MS4s alleviate requirements for hydromodification control and LID implementation, the MS4 must insure that this will not result in negative impacts to water quality.

Throughout the City's development of interim and long-term hydromodification control criteria, Water Board staff intends to provide the City with technical information, direction, and support.

The Homebuilders Association frequently notes that municipalities are different, and that these differences should be taken into account in the various SWMPs, and that a single approach for all municipalities is not appropriate. We agree. The State Board's General Permit is designed to allow municipalities to develop locally relevant and effective SWMPs. Going further, the Water Board's approach allows municipalities to choose among options that take into account highly local conditions, such as water quality priorities, watershed conditions, economics, degree of build out, future development plans, the interaction of multiple municipalities and other land uses in a watershed, etc.

Comment 43: Request for a written, detailed comparison between state and regional stormwater criteria and standards: We made this request in the Morro Bay letter and received no Staff Response in Attachment 3. So we are restating the request and referencing the above point -- expecting a public agency to supply the public with information it is officially requesting. The association requests a clear, step-by-step description of the differences between the criteria established in the California MS4 General Order, including Attachment 4, and the criteria identified in the February 15, 2008 Water Board letter, and what technical findings support the Water Board differences.

Staff Response 43: Attachment 4 in the General Permit addresses water quality control or treatment of stormwater pollutant loading to streams, but only briefly addresses the control of stormwater volume to prevent erosion or stream destabilization. The General Permit includes vague requirements for providing protection for downstream erosion and stream stability, but also requires Water Board staff to only recommend approval of SWMPs that meet the MEP standard. The Water Board finds that the requirements outlined in the Water Board's February 15, 2008 and July 10, 2008 correspondence (or requirements as effective as those requirements), are necessary for SWMPs to meet the MEP standard. Without these hydromodification control requirements, SWMPs would be inadequate to address the priority water quality and watershed impacts of stormwater runoff (pollution reduction and stream erosion and stability impacts). The Water Board's requirements are consistent with the General Permit and with the Code of Federal Regulations. Stormwater regulation nationwide is focusing more on volume control to protect streams from hydromodification impacts. According to the National Academy of Sciences, "Significant changes to the current regulatory program are necessary to provide meaningful regulation of stormwater discharges in the future. One idea is to focus the stormwater program less on chemical pollutants in stormwater and more on problems associated with increased volumes of water" (National Research Council 2008, page

2, reference #16). Additionally, studies are showing that the volume-based treatment controls used in conventional stormwater management systems do not necessarily prevent hydromodification impacts. A supporting document for the state of Maine's Stormwater Management Program provides the following example of a conventional volume-based treatment metric that does not necessarily suffice for protecting downstream waterbodies: "The current standard for regulating runoff quantity from new developments is the *peak flow* standard in the Stormwater Management rules (Chapter 500)... The peak flow standard offers little to no control of runoff from the smaller, more frequent storms that produce most of the development runoff reaching brooks and streams. It is runoff from these small storms that largely determine how a stream will function and transform in response to changes in land use" (Maine Department of Environmental Protection 2003, reference 28, page 1).

Comment 44: Request public hearing: Because we have not yet received the information we requested or the answers to questions we asked in the November 26, 2008, Morro Bay comment letter, for a thorough understanding and public analysis of the City's proposed SWMP and the points we raise herein, the association believes that there are sufficient issues raised to warrant a public hearing on Atascadero's plan before the Water Board. We hereby request a public hearing pursuant to the March 9, 2009 RWQCB letter to the City of Atascadero, with adequate time to present and discuss our positions/comments.

Staff Response 44: The Home Builders Association withdrew their request for a hearing for the City's SWMP in a letter dated, April 8, 2009. See Home Builders Association's final Comment number 53 for a copy of the letter.

Comment 45: Time to develop interim hydromodification control criteria should be two years: As we previously wrote to you, hydromodification experts and supporters repeatedly note that it is unrealistic for a small city, facing fiscal difficulties and staffing shortages like Atascadero, to develop proper, technically founded interim hydromodification criteria within 1 year.

It is obviously critical to protect public safety by insuring that the interim criteria are thoroughly researched before being applied. Criteria should not be "hurried" into practice to meet an artificial deadline at the risk of unintended consequences that could jeopardize public safety or to implement criteria that does not have "technical findings" that demonstrate their feasibility and effectiveness.

As we have done previously, we are attaching for the public record on Atascadero's plan the June 27, 2008, CASQA letter to the Water Board Executive Officer Roger Briggs. CASQA is an expert on stormwater quality management. It provides consulting services to more than 26 million Californians on stormwater management. CASQA states that it will take more than a year to do the appropriate, scientifically valid research on interim criteria and that larger cities "have been expending significant effort on the technical challenge of developing appropriate hydromodification criteria for a number of years. Since 2001, the San Francisco Bay Area Phase I permittees have been working to address this issue, yet there is still no accepted common approach."

The association requests a two-year interim hydromodification control criteria development process.

Staff Response 45: The City proposed a process resulting in interim hydromodification control criteria at the end of Year 1 of program implementation in their March 30, 2009 Draft SWMP. As we address below in Staff Response to Comment 54, the City needs to refine their

applicability criteria for projects exempt from interim hydromodification control criteria, develop interim hydromodification control criteria to align with Water Board expectations, and develop planning application requirements and standards for implementing interim hydromodification, by the end of Year 1. Water Board staff finds this is an acceptable approach to achieving hydromodification controls, since it identifies interim criteria based on a preliminary assessment of conditions unique to the City, and employs these criteria after the first year by adopting them into the City project application requirements and standards.

Water Board staff realizes that hydromodification control criteria development is an iterative process. Water Board staff has tasked the City with implementing interim criteria before developing long-term criteria, to allow the City time to work through the hurdles of implementing hydromodification control criteria and set the stage for the long-term criteria. Additionally, if the City postpones adoption of hydromodification control criteria until after conducting watershed analysis and developing long-term hydromodification control criteria, new projects have potential to degrade the City's watershed. Like all areas of scientific research, LID/hydromodification research will never be complete, so waiting for the research to be complete to implement controls would likely result in no control.

Also, please see Water Board Staff's Response to comment numbers 41 and 42 where Water Board staff cites the references regarding smart growth and balancing the environment, economy, and social values.

Comment 46: SWMP post-construction application cut-off point should be at "Deemed Complete": It is our understanding based on the water board staff's Staff Responses on page 18 in the Feb. 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3 to the issues the association raised previously on applying new hydromodification requirements adopted after a project meets the legal California requirements for being "deemed complete," the association understands that water board staff and board agree that:

- The "deemed complete milestone is an appropriate cut-off point in the entitlement process, after which projects would not be subject to new hydromodification requirements;" and
- This defined cutoff point will be added to all Central Coast SWMPs.

If our understanding stated herein is incorrect, we request that the Water Board provide us with the necessary clarification.

Staff Response 46: Water Board staff understands that, as a mid-sized city, Atascadero has relatively few projects that may be potentially affected by the "deemed complete" cut-off point proposed by the commenter. For these projects, and others for which applications are submitted during the first year of SWMP implementation, the City can voluntarily notify applicants that they should consider LID and address hydromodification in designing their projects. (Central Coast LID Center assistance may also be available to consult applicants on ways to integrate LID into project design.) Water Board staff agrees with the commenter that the "deemed complete" milestone is an appropriate cut-off point in the entitlement process, after which projects would not be subject to new hydromodification requirements.

BMP PC1 details that projects that must adhere to the interim hydromodification control criteria, and are not yet deemed complete, must comply with the interim criteria starting in Year 2. Water Board staff has included a revision requiring the City to have measures in place in the development review process, by the end of Year 1, to ensure projects, not yet deemed complete and meeting the applicability criteria, are not approved unless they adhere to the City's

hydromodification control criteria. The City revised its cut-off point to match the Association's request for a definitive milestone in the most recent SWMP revision. The City defined their milestone as "deemed complete" as that defined in the Permit Streamlining Act. See also final Table of Required Revisions, Item 3.

Comment 47: Incorporating assessments from project geotechnical and soils consultants is imperative: Our understanding, based upon CCRWQCB replies to comments on prior SWMPs, is that the CCRWQCB staff agrees with prior HBA comment letters, regarding incorporating geotechnical consultant assessments. If our understanding is incorrect, we request that the Water Board provide us with the necessary clarification.

Staff Response 47: Water Board staff expects geotechnical/soils information to continue to inform site design for projects in Atascadero. However, Water Board staff does not expect such information to necessarily preclude those sites from using LID BMPs or to necessarily be the basis for exemptions from requirements to mimic the natural hydrograph in post-development runoff events. Water Board staff will review the City's hydromodification controls, stormwater treatment BMPs, and applicability criteria (where and when specific numeric criteria are to be met through post-construction BMPs for new development and significant redevelopment) to determine if the City is achieving water quality protection from these pollution sources. Should the City propose to exempt certain developments from infiltration or LID BMPs, the City would need to demonstrate that alternative or conventional BMPs result in the desired conditions of healthy watersheds, including the conditions of rainfall runoff, groundwater recharge, sediment transport and supply, and riparian and aquatic habitat. To achieve the appropriate balance of environmental and societal goals, the City should consider and select BMPs and applicability criteria from a watershed protection perspective.

Comment 48: Normal maintenance of existing infrastructure by public agencies, project developers, and home owners associations **[should?]** be exempted from the new standards: The association agrees with the Water board staff response to our concern on page 19 in the February 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3. We understand that in the Atascadero and in all stormwater plans, routine maintenance will not be subject to new LID or hydromodification requirements, but "would be subject to education as well as potential enforcement on source control, pollution prevention, and illicit discharges ..." We recommend that this be clearly spelled out in Atascadero's final stormwater plan and future ones.

Staff Response 48: At this time, the City is states they will start developing new requirements for hydromodification control for new development and significant redevelopment. Maintenance activities for existing public infrastructure are subject to multiple BMPs to reduce their potential contribution to stormwater pollution (see the Pollution Prevention/Good Housekeeping for Municipal Operations). Through other management measures in the SWMP, private developments and homeowners associations would be subject to education as well as potential enforcement on source control, pollution prevention, and illicit discharges, but would not be subject to hydromodification controls for routine maintenance activities.

Also, please see Water Board staff's Staff Response to comment numbers 41 and 42 regarding redevelopment/infill/smart growth projects

Comment 49: The "pre-development" definition must be "immediate pre-project": After reading the Water Board staff's Staff Response to this issue on page 20 in the February 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3, the association needs more clarity and remains convinced of the need to receive the public records we requested above regarding

material previously introduced into the administrative record. In the Morro Bay Staff Response, the [Water Board] staff says it “views changing the definition of pre-development condition as described in the (HBA [Home Builders Association]) comment as lowering the standard for post-construction runoff control,” but also notes that hydrologic performance “should not outweigh other important environmental goals, such as infill, redevelopment priorities,” etc. The staff seems to state that cities like Atascadero will build flexibility into the definition of “pre-development” as they develop interim and permanent hydromodification criteria. Is that a correct interpretation of the staff’s Staff Response in the Morro Bay Attachment 3? Defining pre-development as the original natural condition, regardless of current usage, will make many urban infill, smart growth projects fiscally and technically infeasible and is counterproductive to the current sustainability and new urbanism planning concepts intended to reduce sprawl, long-distance commuting, and air pollution.

In addition, a “pre-development” standard harkening to when the land was vacant presents a liability issue that will further hamper urban infill by making insurers refuse to support a project because adding more subsurface water to an area than has been the standard for a lengthy time period could undermine nearby buildings constructed to withstand less groundwater. Insurers will hesitate to take that risk. Projects will not get built. There will be no redevelopment improvements in storm water management.

The EPA publication, referenced in the General Comment Section above, also states regarding the pre-development definition (emphasis added): “When you write your ordinance, however, you may want to avoid confusion by specifying that the pre-development condition *refers to the site immediately prior to redevelopment.*”

In Attachment C – Definitions, the San Diego Region California Regional Water Quality Control Board in order No. R9-2007-0001 for the incorporated cities of San Diego County, the San Diego Unified Port District, and San Diego County Regional Airport Authority defines: “Pre-Project or Pre-Development Runoff Conditions (Discharge Rates, Durations, Etc.) – Runoff conditions that exist onsite immediately before the planned development activities occur. This definition is not intended to be interpreted as that period before any human-induce[d] land activities occurred. This definition pertains to redevelopment as well as initial development.”

We recommend that Atascadero define predevelopment as the “immediate pre-project condition” just as recommended by EPA, and the San Diego Regional Water Quality Control Board.

Staff Response 49: Water Board staff views changing the definition of pre-development condition as described in the comment as lowering the standard for post-construction runoff control. Water Board staff agrees that hydrologic performance should not necessarily outweigh other important environmental goals such as infill, redevelopment priorities, and regional growth patterns that can also affect watershed health. Effective implementation that balances these goals requires well-crafted applicability criteria, which define what types of projects and under what circumstances controls and quantifiable measures apply.

Water Board staff will consider the City’s applicability criteria, including hydrologic baseline conditions, when the City prepares its interim and long-term hydromodification criteria. The options for developing interim hydromodification control criteria, presented in BMP PC1 of the City’s SWMP, provide flexibility for defining the hydrologic baseline conditions. Specifically, the Water Board Executive Officer has approved the City of Santa Maria’s methodology for developing interim hydromodification criteria, including the City’s selection of pre-construction

conditions as a baseline for hydrologic conditions in significant redevelopment projects. [But “pre-construction” is not defined below. What does it mean? Pre-project?]

Water Board staff has adopted the following definitions to represent both ends of the spectrum for hydrologic baseline conditions:

Pre-development: The native vegetation and soil conditions that existed prior to human influence (e.g., urbanization, agriculture, grazing, timber harvest).

Pre-project: Condition immediately prior to the proposed project. The condition includes, but is not limited to, soil type, vegetation, and amount of impervious surface.

Water Board staff has added a revision requiring the City update BMP PC1 to reflect the revised terminology. The intention of this revision is to provide clarity and uniformity for future correspondence. See final Table of Required Revisions, Item 3.

Staff is not proposing the City always use the pre-development hydrologic baseline condition when matching runoff patterns from a site. The City must evaluate what portions of the City and what types of projects will have what level of impact on the City’s waterbodies and in the surrounding watershed. When conditioning runoff flow controls for projects, the City must use the appropriate hydrologic baseline (i.e., pre-development, pre-project, or a condition between these two baselines) to restore, protect, or prevent further impacts to beneficial uses, dependent upon receiving water body and watershed conditions and as needed to achieve healthy functioning watersheds. The appropriate hydrologic baseline may be different on a project-by-project basis; however, the City must account for the cumulative effects of development in their watershed.

Comment 50: Economic balance: The association remains concerned that the Water Board staff sees stormwater management as the paramount land use issue among the many regulations that various government agencies, all with important and legitimate public benefit goals, impose on municipalities and the building industry.

We also note that the Water Board’s comments on page 21 in the February 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3 state that you will not be “dictating specific applicability requirements, and instead has provided the opportunity for the (small cities) to develop applicability criteria that strike an appropriate balance of social, economic, and environmental goals.”

We recommend that Atascadero’s plan include a clearly worded statement that recognizes that stormwater management improvement must “strike an appropriate balance with such social, economic, and environmental goals as affordable housing, reduced air pollution, market-place economics, municipal economics, and local public acceptance.”

Staff Response 50: See Water Board staff’s Staff Response to comment number 41 regarding redevelopment/infill/smart growth projects.

Also, the concept of “balancing” competing interests can be easily misunderstood. The issue is not whether or not beneficial uses must be protected. All municipalities, and other dischargers, must protect all water quality and aquatic habitat beneficial uses from degradation, as defined in the Water Board’s Basin Plan. Municipalities and other dischargers cannot fail to protect beneficial uses and claim competing interests as justification. “Balance,” or reasonableness, in

consideration of other factors is relative to how beneficial uses will be protected and the schedule for achieving or demonstrating compliance. Balance in this context is important, but Water Board staff does not think it is necessary to require the City to add a BMP to achieve this.

Comment 51: Comments on March 9 Water Board staff comments Item No. 5 requires the City to coordinate site inspection information exchanges with SLO Green Build and other stakeholders. We recommend that no groups be singled out by name and that the city be required to meet with stakeholders to receive public input on site inspection.

Staff Response 51: The SWMP mentioned City staff would work with organizations like SLO Green Build when educating stakeholders about the potential pollutants associated with construction sites. Our comments to add a note at the bottom of Table 11b suggested the City include these organizations when they conduct information exchanges or educational opportunities.

Comment 52: Additional specific comments regarding Atascadero's storm water management plan:

Comment 52a: We suggest formatting adjustments so the document is easier to read. It would help to make more use of numbers or letters instead of bullets. It is easier to make specific references to issues and requirements if there are numbers or letters on specific pages to allude to. This might seem minor. But clarity will help the plan's end users when they want to know what is required or communicate with staff or consultants.

Staff Response 52a: Water Board staff agrees and the City enumerated all sections and subsection in their March 30, 2009 revised Draft SWMP.

Comment 52b: In several instances the SWMP quotes from the Feb. 15, 2008, CCRWQCB's Executive Officer's letter but doesn't reflect the exact quote. We recommend correcting to the exact language from the letter.

Staff Response 52b: Water Board staff agrees, and verbatim text for quotes from the Feb. 15, 2008 letter is included in the City's Table of Required Revisions Item Number 6.

Comment 52c: In several instances the SWMP definition of deemed complete does not agree with the deemed complete definition requested by the association, agreed to by CCRWQCB staff and defined in the Permit Streamlining Act. We recommend utilizing the definition established by the Permit Streamlining Act.

Staff Response 52c: Please see Water Board staff response to Comment 46. The City's March 30, 2009 defines "deemed complete" in accordance with the Permit Streamlining Act.

Comment 52d: In instances where the point in time to apply post-construction controls is defined as one year (per RWQCB timing on page 69), we recommend replacing the phrase "by the end of year 1" with the phrase "when the city has adopted interim hydromodification control criteria and a low impact development manual." Post-construction controls cannot be put in place until the interim criteria or the LID manuals are in place.

Staff Response 52d: The City's revised March 30, 2009 Draft SWMP requires that the timing for post-construction controls will occur after Year 1 and after they develop interim criteria and LID manual.

HBA did not provide a specific comment identified by "e."

Comment 52f: The list of "Projects exempted from infiltration requirements" (page 70) should include:

- i. normal project and home owner association maintenance work (as noted above);
- ii. projects "deemed complete" before the adoption of interim hydromodification criteria; and
- iii. infill and redevelopment projects (referencing the above EPA recommendation to exempt infill and redevelopment projects from infiltration requirements in order to encourage what is known as smart or strategic growth.)

Staff Response 52f: The City agreed to revise BMP PC1D and delete Appendices C and D (see Attachment 2—Table of Required Revisions Item Number 9 in the City of Atascadero's March 30, 2009 letter). The revised BMP will allow City staff time to evaluate and fully vet areas potentially exempted from infiltration requirements and assess interactions with its General Plan. As the City develops its interim and long-term control practices it will need to consider these types of exemptions.

Comment 52g: The bottom of page 70 introduces the concept that if projects are exempted from infiltration they are required to choose from three options that will require the project to provide costly methods to provide what they have been exempted from providing. By adding these costly requirements, including an in-lieu fee, the proposal runs directly counter to the previously cited studies and recommendations by the EPA and the Center for Watershed Protection regarding encouraging smart growth. Incorporating the options for projects exempted from infiltration will add project costs, increase the likelihood of project infeasibility, and discourage smart growth.

We request that the section beginning at the bottom of page 70 titled "Projects exempted from infiltration requirements will be required to choose from one of the following three options" be deleted from the SWMP.

Staff Response 52g: Staff agrees that exemption of certain projects is premature before development of approved interim and long-term of post-construction hydromodification control practices. Modification of the City's implementation strategy (i.e., Section 4.5.2, Item 4) is included in the City's Table of Required Revisions Item Number 4. Please see Water Board staff response to Comment 52f and Table 1, Item 9.

Comment 52h: On Page 74, under Notes, city plans to hold at least one meeting to gather public input on ordinance revisions is inadequate. The city should hold several public meetings on different days and different times of day in order to maximize public opportunities for participation.

Staff Response 52h: The City in PC1 indicates the ordinance will be distributed for public review. Based on public demand, the City will hold a minimum of one public meeting for additional public input. As part of the City's Draft SWMP public review process in 2008-2009, the City held several public meetings based on public interest. The City's BMP is also indicative of the potential for multiple meetings.

Comment 52i: On Pages 76 and 77, under Assessment Measures, the city seems to be proposing only 30 minutes of annual staff training and refresher courses on post-construction

storm water management considerations. This is perhaps a typo since 30 minutes is a very minimal time period.

Staff Response 52i: In response to our Table of Revisions for the January 29, 2009 Draft SWMP, the City amended its training requirements under BMP PC3 to train staff on long-term post-construction stormwater management BMP maintenance annually without a time constraint.

Comments from Home Builders Association of the Central Coast, April 8, 2009

Comment 53: Withdrawal of Public Hearing Request for the Atascadero City Phase II MS4 Storm Water Management Plans: The Home Builders Association of the Central Coast is hereby withdrawing its prior request for a public hearing that we made in a March 30, 2009, letter on the Atascadero City Phase II MS4 Storm Water Management Plan (SWMP).

The association is making this request (a) after evaluating the water board staff responses to some of our previous correspondence and (b) comparing the referenced comment letters with the association's Grover Beach SWMP comment letter of Dec. 12, 2008. The substantive comments and issues we raised in the Atascadero letter can be addressed in Grover Beach SWMP May 8 public hearing.

Our request, in this letter, to withdraw our previous request for a public hearing is predicated on the: 1. RWQCB holding a public hearing for the Grover Beach SWMP. 2. The enrollment of the Atascadero SWMP be deferred until after the Grover Beach public hearing such that any changes that result from it can be applied to the Atascadero SWMP as appropriate. 3. The language in the Atascadero SWMP for 4.5.2 Strategy, Item 4 be changed to "Develop interim hydromodification control plan by the end of year 1 (PC1D). Develop long-term hydromodification criteria specific to watersheds within the City's jurisdiction by the end of year 5 (PC1E)." and 4. Addition of language to Atascadero's SWMP to state that "Pre-development refers to soil type, vegetation, and amount of impervious surface existing on the site prior to the development project." (Language from the CC[R]WQCB April 3, 2009 Notice of Enrollment for the City of Watsonville Table of Required Revisions, Item Number 13, Option 2B).

The withdrawal of our request for public hearing is based, among other factors, on the Water Board Staff Response to the association's April 6 letter including the language from its May 6 Staff Response to Grover Beach regarding how "pre-development" and "pre-project" is defined and applied to urban infill/smart growth/redevelopment projects.

Please acknowledge receipt of and agreement with this letter to the association by letter or email.

Staff Response 53: 1) The Water Board held a public hearing for Grover Beach Storm Water Management Plan on May 8, 2009 (see Item 13 at http://www.waterboards.ca.gov/centralcoast/board_info/agendas/2009/may/MAY09agn_web.htm).

2) The enrollment of Atascadero's SWMP was deferred due to staff prioritization of work, but did benefit from the discussions at the Grover Beach hearing.

3) In response to our Table of Revisions for the January 29, 2009 Draft SWMP, the City redrafted language for Section 4.5.2 Strategy, Item 4 to include a new Post-Construction Ordinance BMP. The Measurable Goals and Outcomes for BMP PC1E "Develop long-term

hydromodification criteria specific to watersheds within the City's jurisdiction" provide expanded details of the BMP that "require [a] new ordinance to apply to all projects not already considered "deemed complete" by the agency upon adoption of the post-construction ordinance." The majority of this effort for BMP PC1 will occur over the first four years of the City's permit cycle, as follows.

In the Year 1, the City is required to:

- Train City development and review staff and develop an interim hydromodification control plan in Year 1.

In Year 2, the City is required to:

- Conduct self audit of post construction program.
- Develop in-lieu fee options.
- Revise municipal code to require specific post-construction stormwater management controls and long term maintenance provisions.
- Amend or create ordinances and Standards to implement required revisions to municipal code

In Years 2-4, the City is required to:

- Develop long-term hydromodification control plan.

Additionally, the City drafted new Implementation Details for BMP PC2 "Discretionary Review Tools" to require in:

Year 2:

- LID Design Guidance document adopted or created.
- Revise CEQA initial study checklist.
- Develop a [Post-Construction Stormwater Management] PCSM plan review checklist.
- Develop Standard Conditions of Approval.

Year[s] 2 – 5:

- Track and trend reporting data.
- Require PCSM as a topic in pre-application meeting.
- Train plan reviewers on PCSM plan check requirements.

Plus, the City drafted several new BMP Details and Implementation Details for BMP PC3 Long Term Post Construction Stormwater Management BMP Maintenance.

4) The City has not used the term "pre-development" in its SWMP. Instead, the City defines the pre-construction condition as the area with an assumption of typical vegetation, soil, and stormwater runoff characteristics of open space areas typical of California's central coast unless reasonable historic information is provided that the area was atypical. Please see Water Board staff response to Comment 49, also.

Water Board staff responded to this comment in a letter dated, June 8, 2009. Water Board Staff Response to Home Builders Association withdrawal of request for hearing for the City of Atascadero SWMP: We received your May 15, 2009 notification of withdrawal of your hearing request for the City's SWMP. As applicable for the City, we will incorporate post-construction BMP issues as resolved through our on-going communication with the Home Builders Association, the City, and other stakeholders when we finalize the City's enrollment under the General Permit. Water Board staff will standardize the terms used to describe the hydrologic condition baselines. We will use these terms, and explain their application, in the City's enrollment package.

Table 2: Examples of Applicability Criteria for Stormwater Requirements³**Regulated Projects are Defined in the Following Categories:**Special Land Use Categories

(a) New Development or redevelopment projects that fall into one of the categories listed below and that create and/or replace 10,000 square feet or more of impervious surface (collectively over the entire project site). This category includes development projects on public or private land, which fall under the planning and building authority of the Permittees:

- (i) Auto service facilities, described by the following Standard Industrial Classification (SIC) Codes: 5013, 5014, 5541, 7532-7534, and 7536-7539;
- (ii) Retail gasoline outlets;
- (iii) Restaurants (SIC Code 5812); or
- (iv) Parking lots that are stand-alone or part of any other development project.

(b) For redevelopment projects, specific exclusions to this category are:

- Interior remodels;
- Routine maintenance or repair such as:
 - roof or exterior wall surface replacement,
 - pavement resurfacing within the existing footprint.

Other Development Projects

New development projects that create 10,000 square feet or more of impervious surface (collectively over the entire project site) including commercial, industrial, residential housing subdivisions (i.e., detached single-family home subdivisions, multi-family attached subdivisions (town homes), condominiums, and apartments), mixed-use, and public projects. This category includes development projects on public or private land, which fall under the planning and building authority of the Permittees.

Other Redevelopment Projects

Redevelopment projects that create and/or replace 10,000 square feet or more of impervious surface (collectively over the entire project site) including commercial, industrial, residential housing subdivisions (i.e., detached single-family home subdivisions, multi-family attached subdivisions (town homes), condominiums, and apartments), mixed-use, and public projects. Redevelopment is any land-disturbing activity that results in the creation, addition, or replacement of exterior impervious surface area on a previously developed site. This category includes redevelopment projects on public or private land, which fall under the planning and building authority of the Permittees. Specific exclusions to this category are:

³ This information is provided for purposes of example only are derived from the San Francisco Bay Regional Water Quality Control Board Draft Municipal Regional Stormwater NPDES Permit, Tentative Order R2-2008-XXXX. <http://www.waterboards.ca.gov/sanfranciscobay/mrp.shtml>

- Interior remodels;
- Routine maintenance or repair such as:
 - roof or exterior wall surface replacement,
 - pavement resurfacing within the existing footprint

New Road Projects

Any of the following that create 10,000 square feet or more of newly constructed contiguous impervious surface: streets, roads, or highways; contiguous paved surfaces installed as part of a street, road or highway project (including contiguous sidewalks and bicycle lanes); or impervious trails that are greater than 10 feet wide or are creek-side (within 50 feet of the top of bank). This category includes new road projects that fall under the building and planning authority of the Permittees and excludes Caltrans new road projects.

Road Expansion or Rehabilitation Projects

Arterial streets or roads that are:

(a) Rehabilitated down to the gravel base (i.e., roads or pavement that are demolished and rebuilt from the gravel base up); (b) Widened with additional lanes, sidewalks, or medians; or (c) Replaced, and that create and/or replace 10,000 square feet or more of contiguous impervious surface.

Exemption from Installing Hydraulically Sized Stormwater Treatment Systems:

The following Regulated New Infill or Redevelopment Projects may provide alternative compliance with the permit by Maximizing Site Design Treatment Controls⁴ to provide as much on-site stormwater treatment as possible:

- Projects that meet USEPA's Brownfield Sites definition found in Public Law 107-118 (H.R. 2869) – "Small Business Liability Relief and Brownfields Revitalization Act" signed into law January 11, 2002, and that receive subsidy or similar benefits under a program designed to redevelop such sites;
- Low-income housing as defined under Government Code section 65589.5(h)(3), but limited to, the actual low-income portion, or low income impervious area percentage, of the project;
- Senior citizen housing development, as defined under California Civil Code section 51.11(b)(4); or
- Transit-Oriented Development⁵ projects.

⁴ Maximizing Site Design Treatment Controls is defined as including a minimum of one of the following specific site design and/or treatment measures:

- Diverging roof runoff to vegetated areas before discharge to storm drain;
- Directing surface runoff to vegetated areas before discharge to storm drain;
- Installing landscaped-based stormwater treatment measures (non-hydraulically-sized) such as tree wells or bioretention gardens; or
- Installing prefabricated/proprietary stormwater treatment controls (non-hydraulically-sized).

⁵ Transit-Oriented Development — Any development project that will be located within ½ mile of a transit station and will meet one of the criteria listed below. A transit station is defined as a rail or light-rail station, ferry terminal, bus hub, or bus transfer station. A bus hub or bus transfer

All other Regulated New Infill or Redevelopment Projects may provide alternative compliance by satisfying one or more of the following requirements after minimizing the new and/or replaced impervious surface on-site:

- a. Installing, operating and maintaining Equivalent Offsite Treatment⁶ at an off-site project in the same watershed;
- b. Contributing Equivalent Funds⁷ to a Regional Project.⁸

Applicability of Hydromodification Management Standard:

The Hydromodification Management (HM) Standard shall apply in all areas except where a project:

- discharges stormwater runoff into creeks or storm drains that are concrete-lined or significantly hardened (e.g., with rip-rap, sackrete) downstream to their outfall in San Francisco Bay;
- discharges to an underground storm drain discharging to the Bay; or
- is located in a highly developed watershed.⁹

However, plans to restore a creek reach may reintroduce the applicability of HM controls, and would need to be addressed in the HM

station is required to have an intersection of three or more bus routes that are in service 16 hours a day, with a minimum route frequency of 15 minutes during the peak hours of 7 am to 10 am (inclusive) and 3 pm to 7 pm (inclusive).

- i. A housing or mixed-use development project with a minimum density of 30 residential units per acre and that provides no more than one parking space per residential unit; or
- ii. A commercial development project with a minimum floor area ratio (FAR) of three and that provides:
 - (a) For restaurants, no more than 3 parking spaces per 1000 square feet;
 - (b) For offices, no more than 1.25 parking spaces per 1000 square feet;
 - (c) For retail, no more than 2.0 parking spaces for 1000 square feet. Sharing of parking between uses within these maximums is allowed. Carshare and bicycle parking spaces are not subject to these maximums.

⁶ Equivalent Offsite Treatment—Hydraulically-sized treatment (in accordance with the permit) and associated operation and maintenance of:

1. An equal area of new and/or replaced impervious surface of similar land uses as that created by the Regulated Project;
2. An equivalent amount of pollutant loading as that created by the Regulated Project; or
3. An equivalent quantity of runoff from similar land uses as that created by the Regulated Project.

⁷ Equivalent Funds—Monetary amount necessary to provide both:

1. Hydraulically-sized treatment (in accordance with the Permit) of:
 - a. An equal area of new and/or replaced impervious surface of similar land uses as that created by the Regulated Project;
 - b. An equivalent amount of pollutant loading as that created by the Regulated Project; or
 - c. An equivalent quantity of runoff from similar land uses as that created by the Regulated Project; and,
2. A proportional share of the operation and maintenance costs of the Regional Project.

⁸ Regional Project—A regional or municipal stormwater treatment facility that discharges into the same watershed as does the Regulated Project.

⁹ Within the context of these requirements, “highly developed watersheds” refers to catchments or subcatchments that are 65% impervious or more.

Plan.

Impacticability Provision:

Where conditions (e.g., extreme space limitations) prevent a project from meeting the HM Standard for a reasonable cost, *and* where the project's runoff cannot be directed to a regional HM control within a reasonable time frame, *and* where an in-stream measure is not practicable, the project shall use (1) site design for hydrologic source control, *and* (2) stormwater treatment measures that collectively minimize, slow, and detain runoff to the maximum extent practicable.

In addition, if the cost of providing site design for hydrologic source control and treatment measures to the maximum extent practicable does not exceed 2% of the project cost (as defined in "a." below), the project proponent shall provide for or contribute financially to an alternative HM project as set forth below:

a. *Reasonable cost:* To show that the HM Standard cannot be met at a reasonable cost, the project proponent must demonstrate that the total cost to comply with both the HM Standard and the permit's treatment requirement exceeds 2 percent of the project construction cost, excluding land costs. Costs of HM and treatment control measures shall not include land costs, soil disposal fees, hauling, contaminated soil testing, mitigation, disposal, or other normal site enhancement costs such as landscaping or grading that are required for other development purposes.

b. *Regional HM controls:* A regional HM control shall be considered available if there is a planned location for the regional HM control and if an appropriate funding mechanism for a regional HM control is in place by the time of project construction.

c. *In-stream measures practicability:* In-stream measures shall be considered practicable when an in-stream measure for the project's watershed is planned and an appropriate funding mechanism for an in-stream measure is in place by the time of project construction.

d. *Financial contribution to an alternative HM project:* The difference between 2 percent of the project construction costs and the cost of the treatment measures at the site (both costs as described in Section 2.a of this Attachment) shall be contributed to an alternative HM project, such as a stormwater treatment retrofit, HM retrofit, regional HM control, or in-stream measure. Preference shall be given to projects discharging, in this order, to the same tributary, mainstem, watershed, then in the same municipality or county.

References

1. "America's Living Oceans: Charting a Course for Sea Change." The Pews Oceans Commission. (2 June 2003): 16, 58.
<http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Protecting_ocean_life/env_pew_oceans_final_report.pdf>. pp. 166.
2. "California State Constitution." California State Government. (September 8, 1994): Article 10, Sec. 2. <http://www.leginfo.ca.gov/const/article_10>
3. "Code of Federal Regulations" United States of America. Title 40. Sec. 122.34 <<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>>
4. "Draft NPDES General Permit for Stormwater Discharges Associated Construction and Land Disturbance Activities." California State Water Resources Control Board. <http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/draft/draftconst_permit_031808.doc>. pp.27
5. "Draft Tentative Order Orange County Municipal Separate Storm Sewer System Permit." San Diego Regional Water Quality Control Board. (12 December 2007): 38. <http://www.waterboards.ca.gov/sandiego/water_issues/programs/stormwater/docs/oc_permit/r92007_0002/2007_0002rev_att070607.pdf> pp. 34
6. "Draft Tentative Order San Francisco Bay Region Municipal Regional Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit: Urban Runoff Quality Mgmt, Provision C.3." San Francisco Bay Regional Water Quality Control Board. (4 December 2007—Updated 14 December 2007): 21-22. <http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/muni/mrp/mrptentativeorder121407updated.pdf>.
7. "Draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit." Los Angeles Regional Water Quality Control Board. <http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/ventura_ms4/08_0429/draft_Tentative_Ventura_County_MS4_Permit.pdf>. pp. 115
8. "Dynamics of Urban Stream Channel Enlargement." The Practice of Watershed Protection. Article 19 (2000): 99-104.
9. "Impacts of Impervious Cover on Aquatic Systems, Watershed Protection Research Monograph No. 1." Center for Watershed Protection, Ellicott City, Md., March 2003. <http://www.cwp.org/Resource_Library/Center_Docs/IC/Impacts_IC_Aq_Systems.pdf> pp. 158.
10. "Impervious Cover Method." ENSR International. (October 2005). 11 June 2008. <http://www.epa.gov/ne/eco/tmdl/assets/pdfs/ensr_pilot/Section2.pdf>. pp. 11.
11. "Methods for Evaluating Wetland Condition: Developing Metrics and Indexes of Biological Integrity." U.S. Environmental Protection Agency. (2002) <<http://www.epa.gov/waterscience/criteria/wetlands/6Metrics.pdf>> pp. 45.
12. "Recycled Water Policy." State Water Resources Control Board. (February 3, 2009): 1, 5, 6.
<http://www.waterboards.ca.gov/water_issues/programs/water_recycling_policy/docs/final_policy_021109.pdf>. pp. 14.
13. "State Water Resources Control Board Resolution No. 2008-0300: Requiring Sustainable Water Resources Management." State Water Resources Control Board. (May 6, 2008).
<http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2008/rs2008_0030.pdf>.
14. "Stormwater C.3 Guidebook." Contra Costa Clean Water Program. Third Edition (2006) <<http://www.cccleanwater.org/new-developmentc3/>>. pp. 147.

15. "Strategic Plan Update: 2008-2012." State Water Resources Control Board. (September 2, 2008): 7, 24, 27.
<http://www.waterboards.ca.gov/water_issues/hot_topics/strategic_plan/docs/final_draft_strategic_plan_update_090208.pdf>. pp. 45.
16. "Urban Stormwater Management in the United States: Report in Brief." National Research Council. (October 2008).
<http://www.nctcog.org/envir/SEEClean/stormwater/nrc_stormwaterreport_fs.pdf>. pp. 4
17. "Water Quality Control Plan: Central Coast Basin, Region 3" Central Coast Regional Water Quality Control Board. (September 8, 1994): Chap. 4.<http://www.waterboards.ca.gov/centralcoast/publications_forms/publications/basin_plan/bp_pdfversion/ch4.pdf>.
18. Beach, Dana. "Coastal Sprawl: The Effects of Urban Design on Aquatic Ecosystems in the United States." The Pews Oceans Commission. (8 April 2002).<http://www.pewtrusts.org/our_work_report_detail.aspx?id=30037> pp. 40
19. Booth, Derek, and Rhett Jackson. "Urbanization of Aquatic Systems – Degradation Thresholds, Stormwater Detention, and the Limits of Mitigation." American Water Resources Association. 22.5 (1997)
<http://kvue.iewatershed.com/kvue/urban_hydro_boothwrb.pdf>. pp. 19
20. California State University, Sacramento. NPDES Stormwater Cost Survey. January 2005. pp. 296
21. Central Coast Water Board. Phase 4: Project Analysis, Preliminary Project Report, Total Maximum Daily Load for Sediment in Aptos Creek and Valencia Creek, Santa Cruz County, CA. September 2004.
<http://www.waterboards.ca.gov/centralcoast/water_issues/programs/tmdl/docs/apto_s/preliminary_project_report.pdf> pp. 66
22. Coleman, Derrick, et al. "Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams." Southern California Coastal Water Research Project. Technical Report 450 (2005).
<ftp://ftp.sccwrp.org/pub/download/DOCUMENTS/TechnicalReports/450_peak_flow.pdf> pp. 70
23. ECONorthwest. The Economics of Low-Impact Development: A Literature Review. November 2007. http://www.econw.com/reports/ECONorthwest_Low-Impact-Development-Economics-Literature-Review.pdf . pp. 40.
24. Federico, Felicia. "Hydromodification: Science, Regulations and Management Strategies." Powerpoint presentation slide handout by Geosyntec Consultants. June 15, 2007. pp. 19.
25. GeoSyntec Consultants for Santa Clara Valley Urban Runoff Pollution Prevention Program. "Hydromodification Management Plan Literature Review." September, 2002.
26. Hecht, Barry, and Mark R. Woyshner, 1984. Storm Hydrology and Definition of Sand-Hill Recharge Areas, Pajaro Basin. In Hecht, B., Esmaili, H., and Johnson, N.M., 1984, Pajaro Basin Groundwater Management Study, prepared by HEA for the Association of Monterey Bay Area Governments. pp. 34.
27. Horner, Richard. "Investigation of the Feasibility and Benefits of Low-Impact Site Design Practices (LID) for Ventura County."
<http://www.arb.ca.gov/cc/scopingplan/submittals/other/nrdc_low_impact_development_finalattachment_rpercent_20horner_percent_20report_final.pdf>pp.4.
28. Maine Department of Environmental Protection. "Runoff Quantity: Progressing beyond Control of Peak Flow Rates." June 25, 2003.

- <<http://www.maine.gov/dep/blwq/docstand/stormwater/group/quantitydiscussion.pdf>.
29. Moglen, Glenn, and Sunghye Kim. "Limiting Imperviousness." Journal of the American Planning Association 73.3 (2007): 161-171. pp 10.
 30. National Resources Defense Council. Memo Re: Revised Tentative Order No. r9-2008-0001, NPDES Order No. CAS0108740, To: Executive Officer and Members of the Board RWQCB, San Diego. January 24, 2008. pp. 12
 31. Ode, Peter R., Andrew C. Rehn, and Jason T. May. "A Quantitative Tool for Assessing the Integrity of Southern Coastal California Streams." Environmental Management. 35.4 (2005): 493-504. <<http://www.ccamp.org/ccamp/documents/SoCalIBI.pdf>>.
 32. Prince George's County, Maryland Department of Environmental Resources. "Low-Impact Development Design Strategies: An Integrated Design Approach." June, 1999. <<http://www.epa.gov/nps/lidnatl.pdf>> pp.150.
 33. San Bernadino County Stormwater Program. "Model Water Quality Management Plan Guidance." <http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/docs/sbpermit/wqmpguide60905.pdf> pp. 51.
 34. Sutherland, R.C. "Impervious Area Assumptions Used in Hydrologic Modeling of CWS Watersheds." Pacific Water Resources, Inc. (30 August 2005). 5 June, 2008. <<http://www.cleanwaterservices.org/content/SWMP/Technical%20Memo%208-30-05.pdf>> pp. 9
 35. Sutherland, R.C. "Methods for Estimating the Effective Impervious Area of Urban Watersheds." The Practice of Watershed Protection. Article 32 (2000): 193-195.
 36. Swanson Hydrology & Geomorphology, 2003. Geomorphology & Sediment Source Assessment Technical Memorandum for the Aptos Creek Watershed Assessment. March. <http://www.waterboards.ca.gov/centralcoast/water_issues/programs/tmdl/docs/apto/s/appendix_d_000.pdf> pp.66.
 37. SWRCB, 2007. Fact Sheet for General Permit for Storm Water Discharges Associated with Construction Activity (General Permit). <http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/factsheet070302.pdf> pp. 40.
 38. USEPA. Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices. December 2007. <<http://www.epa.gov/owow/nps/lid/costs07/documents/reducingstormwatercosts.pdf>> pp. 37.